BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

IN THE MATTER OF THE CONTINUED COSTING AND PRICING OF UNBUNDLED NETWORK ELEMENTS, TRANSPORT, TERMINATION, AND RESALE	**Docket No. UT-003013, Part D** **WORLDCOM'S OPENING POST HEARING BRIEF (Non Confidential)**

WorldCom, Inc., on behalf of its regulated subsidiaries in Washington, hereby submits its Post Hearing Brief in this matter.

I. INTRODUCTION

This is one in a series of phases of the Washington Transportation and Utilities Commission's (the "Commission's") determination of the rates to be paid by competitive local exchange competitors ("CLECs") to incumbent local exchange carriers ("ILECs") for wholesale goods and services made available pursuant to the Telecommunications Act of 1996.[1] This phase addressed a multitude of non recurring and recurring rates that, for the most part, had not previously been reviewed or approved by this Commission. Verizon and Qwest presented cost studies and testimony in an attempt to support their proposals. The intervening parties, including WorldCom, presented testimony criticizing Verizon and Qwest's proposals.

[1] 47 U.S.C section 153 et. seq.

WorldCom asks this Commission to evaluate Qwest's proposals critically, keeping in mind WorldCom's concerns. WorldCom's review of Qwest's proposals recognized several general problems as outlined in Don Price's Second Amended Direct Testimony. First, Qwest's testimony is not organized in a manner that allows the reader to determine what recommendations are being made. The second criticism is that nowhere in its presentation does Qwest provide the reader with any explanation as to the application of the numerous rate elements contained in Ms. Million's Exhibit 2051.[2]

It is important for Qwest to provide an explanation for the application of its rates. There are a variety of "pieces to the puzzle" which must ultimately be pieced together into a coherent whole. That the Commission has chosen separately to consider the piece parts in separate phases of a larger proceeding in no way diminishes the importance of that objective. Even the closest scrutiny of Qwest's costing analyses by the Commission in this phase will not achieve the desired public policy objectives if the Commission's findings are not tightly integrated with the other puzzle pieces: i.e., terms and conditions (including application of rates) and how the costs of various functions or elements are translated into rates.[3]

Furthermore, it is a fundamental tenet of sound cost analysis that every cost study should reflect the manner in which costs are incurred for the function or element under analysis. Should Qwest be permitted to apply the resulting rates in a manner different from the cost incurrence reflected in the analysis, a possible (perhaps likely) outcome would be overcharging for the

[2] Qwest's witness, Ms. Malone's testimony on SS7 and local tandem switching are two examples of situations where the record contains no any meaningful discussion of when and/or under what conditions the proposed rates would be applied. See Exhibit T-2230 at 4-6.

[3] Exhibit T-2230 at 6.

function or element. For these reasons, it is important in each phase not to lose sight of the interrelationship between the various puzzle pieces.[4]

WorldCom requests that the Commission critically analyze Qwest's rate proposals with the intervening parties' concerns in mind.

II. LEGAL AND POLICY STANDARDS

A. Legal

As the Commission recently recognized in its Part B Order,

> The purpose of the Act is to "provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition . . . . *H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 13 (1996).* Congress envisioned that the Act's pro-competitive policies would be accomplished, in large part, by requiring incumbent local exchange companies ("ILECs"), such as Qwest and Verizon, to open their networks to competitive local exchange companies ("CLECs").[5]

Congress set forth specific pricing standards in the Act, designed to accomplish that objective. With regard to Interconnection, Section 251(c)(2) requires the ILECs to:

> [P]rovide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network –
>
> > (D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions.

Similarly, with regard to unbundled network elements, the Act requires ILECs to:

> [P]rovide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

---

[4] Id. at 6-7.

[5] *In the Matter of the Continued Costing and Pricing of Unbundled Network Elements, Transport and Termination,* Docket No. 003013, Part B, Thirty Second Supplemental Order ("Part B Order") at page 4.

47 U.S.C Section 251(c)(3).

Collocation is specifically addressed in section 251(c)(6). Like the other facets of wholesale local services, ILECs are required to provide CLECs with collocation on "rates, terms and conditions that are just, reasonable and nondiscriminatory."

The Act outlines additional pricing standards at Section 252(d)(1):

> INTERCONNECTION AND NETWORK ELEMENT CHARGES. – Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section –
>
> (A) shall be—
>
> (i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and
>
> (ii) nondiscriminatory, and
>
> (B) may include a reasonable profit.

To implement these sections of the Act, the FCC has established rules that were recently affirmed by the United States Supreme Court.[6] The FCC's pricing rules are set forth at 47 C.F.R sections 51.501 through 51.515. In general, prices for elements must be set at their forward-looking economic cost, which equals the sum of the total element long run incremental cost ("TELRIC") of the element plus a reasonable allocation of forward looking common costs.[7] The TELRIC principles can be summarized as follows:

Principle # 1: *The firm should be assumed to operate in the long run. (¶ 677 & 692)*

Principle # 2: *The relevant increment of output should be total company demand for the unbundled network element in question. (¶ 690)*

---

[6] *Verizon Communications Inc. v. Federal Communications Commission,* 535 U.S. ____ (May 13, 2002).
[7] 47 C.F.R section 51.505; see also First Report and Order, *In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* No. 96-98, 11 FCC Rcd 21905 (rel. Aug. 8, 1996) ("Local Competition Order").

Principle # 3: *Technology choices should reflect least-cost, most efficient technologies. (¶ 685)*

Principle # 4: *Costs should be forward-looking. (¶ 679, 682, 692)*

Principle # 5: *Cost identification should follow cost causation*. (¶ 691)

In addition to these TELRIC principles, the FCC also noted that ILECs must prove to the state commissions the nature and magnitude of any forward-looking cost they seek to recover in the prices of interconnection and unbundled network elements.[8] While this most important of rules is unfortunately overlooked by some state commissions, the Washington Commission should put specific emphasis on this rule (and the ILECs' obligation) so as to combat assumptions and inputs that may have a large influence on ultimate wholesale costs and rates, yet are not supported with any corroborating evidence. Finally, cost models should be transparent, open and verifiable by Commissions and interveners.[9]

Consistent with sound economics, good public policy, FCC Orders and orders from this Commission, *prices for interconnection and UNEs should be set at forward-looking economic cost*. As generally accepted by economists – and as articulated by the FCC in various orders – prices (recurring and nonrecurring) that are set at cost send the right signals to all market participants and, as a result, promote efficient competition. As the FCC noted in its *Local Competition Order* at paragraph 679,

> Because a pricing methodology based on forward-looking costs simulates the conditions in a competitive marketplace, it allows the requesting carrier to produce efficiently and to compete effectively, which should drive retail prices to their competitive levels.

[8] Id. at ¶ 680.

[9] This Commission stated specifically that cost models should be open and transparent to aid competitors and other parties in their review of cost support. (Fifteenth Supplemental Order, Docket No. UT-950200 (April 11, 1996), at 86. Further, the FCC recently directed that in upcoming cases to be arbitrated by the FCC, computerized cost models "must be submitted in a form that allows the Arbitrator and the parties to alter inputs and determine the effect on cost estimates." Procedures Established for Arbitration of Interconnection Agreements Between Verizon, AT&T, Cox, and WorldCom, DA 01-270 (February 1, 2001), Paras. A.2.1.i; A.3.1.c.

By contrast, when prices deviate from cost, a number of market distortions are introduced, which invariably harm the general economic welfare. For example, if the price for a UNE or service is set above forward-looking economic costs, then competition is diminished in a number of ways.

Service prices should accurately track the manner in which an efficient ILEC -- using equipment, facilities, and capabilities that are currently available -- would incur its costs on a long-run forward-looking basis. This is consistent with the TELRIC principles required by the FCC and this Commission. As such, the Commission should not allow Qwest to price on a market basis for services with market power. Neither should the Commission allow Qwest to assume inefficient equipment or procedures that artificially increase costs for CLECs. Prices based on long run, forward-looking costs are consistent with prices one observes in competitive markets -- prices which regulation should seek to mimic to the maximum extent possible. Non-recurring costs ("NRCs") should be based on forward-looking economic cost assumptions as well.

Overstated prices create market distortions that harm the public interest and the development of competition. For instance, overstated NRCs create significant barriers to local competition by making it more expensive for end users to choose a CLEC to provide their telecommunications services. The potential for NRCs to act as a barrier to entry makes it critical that the Commission and the parties have the opportunity to carefully scrutinize any claimed cost justifications for such charges. Because NRCs are assessed up-front, by their very nature, they tend to act as barriers to entry. The higher the up-front charge, the higher the barrier to entry. Thus Qwest and Verizon have a powerful incentive to argue for the highest possible NRCs.

With these principles in mind, WorldCom urges the Commission to modify the ILECs' cost proposals as specified below.

B. Policy

As stated above, the central purpose of the 1996 Act is to promote competition in all telecommunications markets, including the local residential market. In requiring that prices for network elements be based on cost, Congress reflected its understanding that accurate cost-based pricing of unbundled network elements would be one of the keys to opening local markets. While cost-based pricing is not designed to guarantee that any particular competitor will be able to make a profit in the local market, it is designed to produce rates that promote competition, and if, to the contrary, the rates that have been established appear to stifle competition, there is good reason to believe that they may not be cost-based.

With respect to implementation of the pro-competitive policies that formed the basis of the Act, the State of Washington is at a crossroads. Washington is a major state within Qwest's 14-state region where competitive providers, including WorldCom, have entered to compete in the residential local exchange market. Qwest's request for the Federal Communications Commission's ("FCC's) approval of its application under section 271 of the Act is presently pending. Therefore, it is especially imperative that the Commission ensures that the rates that Qwest charges its wholesale customers will not present a barrier to entry.

A barrier to entry is a factor that prevents or impedes a potential entrant from actually entering a market. Barriers to entry arise whenever a new entrant faces costs that the incumbent does not face. These added costs mean that a would-be entrant must expect higher prices than it would otherwise need before it would otherwise need before it will be willing to enter the market. Once Qwest has obtained authority to enter the in-region long distance market, if

artificial barriers to entry exist, it is unlikely that a robust, competitive residential local exchange market will ever emerge.

The competitive advantage Qwest and Verizon possess through their current relationship with virtually all residential end-users and control of the bottleneck facilities necessary to serve those customers, make it impossible for competitors to enter the residential local exchange market unless the rates competitors must pay for goods and services are set consistently with the principles set forth in the Act and the FCC rules.

III. QWEST

A. Non-recurring Costs

1. Overview

Qwest has not adhered to TELRIC principles in its cost studies. First, Qwest did not apply a forward-looking analysis. Such an analysis requires Qwest to assume that all inputs are variable (the "long run" part of TELRIC) – in particular, its Operations Support Systems ("OSS"). Rather, Qwest relied on its current experience with its existing OSS. Qwest states that its Enhanced Nonrecurring Cost ("ENRC") model "contains inputs based on Qwest's current experience in processing orders and provisioning network plant."[10] Qwest's approach fails to recognize that a forward-looking, long run economic cost construct for NRCs develops costs based on using forward-looking OSS efficiently, forward-looking technologies and efficient labor costs.

Second, Qwest assumes inefficient operations in developing its cost model inputs. Adhering to TELRIC principles requires activities to be performed in an efficient manner, and Qwest assumed excessive time to perform functions, thereby violating TELRIC principles.

[10] Direct Testimony of Teresa K. Million on Behalf of Qwest Corporation, Exhibit T-2020 at 16.

Qwest also included unnecessary or inappropriate activities in its cost studies. Qwest treats separately activities that could be performed in parallel or in combination.

Third, Qwest took short cuts in the data collection process. Qwest was unable to provide satisfactory supporting documentation for a number of the costs included in its studies. Instead of independently verifiable time and motion studies, Qwest relies on time estimates of Qwest in-house "subject matter experts," and in some cases, only one in-house employee, to provide time estimates to support its cost proposals.

WorldCom requests that the Commission require Qwest to remedy these errors and resubmit cost studies that are consistent with TELRIC principles. In the alternative, or in the interim, WorldCom requests that the Commission adopt the changes to Qwest's cost studies recommended by WorldCom witnesses.

a. Qwest failed to use efficient OSS in its cost studies.

Qwest's legacy systems are examples of provisioning and maintenance OSS currently deployed by ILECs with the objective of increasing flow-through by utilizing mechanization to reduce costly manual intervention. Qwest has not utilized the most efficient systems technology and processes available in conducting its studies.

The term "efficient technology," as it applies to service provisioning, means that the "efficient technology" is fully utilized in the provisioning business process. If the supporting business processes ignore the efficiency potential of OSS, the costs associated with the provisioning activities will be significantly higher. If Qwest has deployed the OSS platforms needed for services to be provisioned automatically but is not fully utilizing these systems to

perform these tasks or recognizing the efficiencies of the OSS technology in its study, the study exaggerates provisioning costs.[11]

One of the advantages of providing an efficient OSS platform is that efficient OSS virtually eliminate the requirement for manual intervention when connecting and disconnecting services consequently representing a full flow-through environment. This mechanized flow-through process utilizes systems to electronically link and control all systems and processes required for service provisioning. Mr. Morrison used the Plain Old Telephone Service to demonstrate the mechanized flow through process in his testimony.[12]

The term *fallout* is used to define an event as an error in mechanized flow-through processing. To illustrate, assume a number of OSS are electronically connected to create a flow-through electronic ordering process. If one of the OSS systems receives invalid or incompatible information from another OSS system, the order will fallout of the electronically interfaced process and will require manual intervention to complete the order.[13]

There are three types of OSS/network element system errors or failures that cause fallout:

- Database synchronization errors
- Network element/element manager failures
- System Communication failures[14]

Effective ILEC users of forward looking OSS technology utilize, as part of their business process, a root cause analysis procedure to scrutinize the causes of OSS fallout. The resulting root cause analysis data are used to develop improvements to business processes and develop software features and enhancements to improve flow-through effectiveness.[15]

---

[11] Exhibit T-2270 at 13.
[12] Id. at 14-15.
[13] Id. at 15.
[14] Mr. Morrison defines each of these failures in his testimony. See Exhibit T-2270 at 16.
[15] Id. at 17.

A example of the root cause analysis process and its ability to improve flow-through is evident from the transcript of the Operations Support Systems Forum that was held on May 28 and 29, 1997 by the FCC Common Carrier Bureau. During the second day of the forum, Elizabeth Ham from Southwestern Bell described how her company improved the flow-through capability of their EASE (Easy Access Sales Environment) OSS to 99% flow-through. Commenting on the high flow-through level, Ms. Ham stated:

> Our consumer EASE product permits a 99% flow through of all service orders that are entered by all residential or customer retail operations. We would expect the same flow through from a trained CLEC service rep.

Exhibit 2202 at 14 and 15 of 65.

Southwestern Bell's experience demonstrates the type of flow–through that can be achieved via currently available telecommunications technology and processes. In the framework of Qwest NRC cost studies, the historic fall-out rates must be adjusted to reflect forward-looking, lower cost, flow-through OSS technological efficiencies. In addition, OSS fallout must be viewed in the context of the total provisioning processes rather than viewing process steps individually. Viewing steps individually compounds the rate of failure for the business processes.[16]

To demonstrate this point, Mr. Morrison discussed an example of two parties that both state that a 10% fallout rate is acceptable in provisioning a network element. The first party applies 10% to 100 provisioning orders with 10 work steps each and creates 100 additional expense work item computations. The second party applies a 10% fallout rate once to provisioning the network element, which results in only 10 expense work item computations.[17]

[16] Exhibit 2270 at 18.
[17] Id.

Obviously the cost for 100 additional work item computations would greatly exceed the cost of 10 expense work item computations.

It is very important to distinguish fallout resolution costs and the costs associated with planned manual intervention. The difference is the efficient utilization of forward-looking OSS technology. Orders that fall out of an OSS flow-through process have the potential to generate a significant amount of manual intervention time to resolve the associated trouble. Viewed over a period of two or three years, this amount of work to resolve service provisioning discrepancies, generates the type of circumstance that is a candidate for elimination by applying basic quality improvement procedures or a forward-looking OSS technology solution.[18]

Qwest has failed to provide evidence that it has utilized basic quality improvement procedures to improve the costs associated with system fallout. This approach to fallout management is unacceptable. Instances of fallout should be incorporated into a common fallout factor that is applied to the end-to-end process in recognition of the forward looking flow-through potential of OSS.[19]

Including fallout work item times in the calculation of NRCs for the provisioning of services is flawed for four reasons:

- there is no incentive for improvement;
- it accepts multiple quality failures as a standard portion of network element provisioning;
- there is no way to determine the statistical validity of the data presented; and
- it guarantees the ongoing acceptance of abnormally high NRCs associated with manual intervention.

Mr. Morrison proposed that an administrative fallout factor be incorporated into each network element NRC calculation to recognize the reality that fallout will occur. This factor

[18] Id. at 19.
[19] Id. at 19-20.

should be applied once to the entire end-to-end provisioning process in recognition of the basic principle that processes should be viewed in this manner and to avoid the compounding cost effect associated with recognizing fallout at each process step. He proposed utilizing a rate of 2% to reflect forward looking quality/cost efficiencies, which in his opinion are "reasonable to expect from a progressive company focused on forward looking process improvements."[20]

WorldCom asks this Commission to join the other commissions that have done so and order Qwest to utilize a 2% fall out factor in its non recurring cost studies. Further, the Commission should require that Qwest apply the 2% one time in the calculation of each network element.

b. Qwest included excessive time for verification and validation.

Validation work items are those work items that involve verifying, validating, and checking information, and occasionally other terms are used synonymously with these terms. A forward-looking OSS platform assumes stable synchronized systems data. Therefore, there is no reason to repetitively verify, validate or check data after its initial establishment in the system or systems. Mr. Morrison concluded that the time spent on verification, validation and checking was unnecessary as it is practiced and as used in Qwest's cost studies. In a forward-looking OSS business process environment, these work items would either not exist or performed as an incidental task by the technician doing the specific manual intervention activity associated with the UNE, or would be replaced by an OSS software feature.[21] In Exhibits C-2271, 2251 and

[20] Id. at 20-21; Several jurisdictions have agreed with WorldCom's proposal and have required ILECs to modify their NRCs to incorporate a 2% fallout factor: Massachusetts, D.P.U./D.T.E. 96-73/74, 96-75, 96-80/81, 96-83, 96-94-Phase 4-L consolidated arbitration ruling (October 1999) at 11-13; Connecticut PUC, Docket 97-04-10 decision (May 1998) at 35 and 41; Michigan PUC Case U-11280 (November 1999) at 24-28; Minnesota PUC Docket No. P44,5321,3167,466,421/CI 96-1540 (May 3, 1999) at 3; *In the Matter of the Investigation into Qwest's Compliance with Certain Wholesale Pricing Requirements for UNEs and Resale*, ACC Docket No. T-00000A-00-194 (June 2002)("Arizona Cost Decision") at 33.

[21] Tr. at 4925-4926.

2253, Mr. Morrison and Mr. Lathrop eliminated time associated with the unnecessary verification, validation and checking tasks.

c. Qwest failed to provide proper supporting documentation for its studies.

The work papers provided by Qwest (Exhibit C-2024) contain copies of documents provided by Qwest SMEs for the cost studies. These documents are interviews, copies of business process documents and instructions for time estimates and probability of occurrence as determined by SMEs. This documentation provides the basic data, in terms of manual activities, that were used to generate the costs in this study. Very few of the SME interview summaries or other documents contain any forward-looking comments or data. This is not surprising, because generally SMEs are experts in how work is currently performed, and have limited exposure to new process designs and technology advances prior to their introduction. Consequently, the majority of the data used to calculate the costs in this study is historic rather than forward-looking.[22]

Moreover, except for the labor rates, Qwest SMEs used assumptions based on Qwest's current OSS systems. Qwest has made no adjustments to the estimates to reflect the efficiencies that would be achieved by forward-looking OSS systems, except to the extent that Qwest anticipated productivity increases for its existing systems at the time the initial estimates were made.[23]

In addition, while the time and fallout estimates may be consistent with the individual SMEs' experience, Qwest did not provide an explanation of how the statistical accuracy of the data was validated.[24] In some cases, Qwest relies on only one expert's opinion. Exhibit C-2024,

[22] Exhibit T-2270 at 22.
[23] Tr. at 4139-4141.
[24] Exhibit T-2270 at 22-23.

tab 76 indicates that one expert is used by Qwest in estimating work times for multiple work items.[25]

Relying on one SME's estimation is a problem. Time and motion studies should be done to determine the actual time required to complete a specific task. But if opinion is relied upon, then the opinion should reflect a wide range of experience and observation. Relying solely upon one person or even a small group of people to determine tasks and times can be a problem. Time estimates should be done in a manner that provides a statistically valid sample of information.[26]

Qwest's supporting documentation demonstrates that Qwest's estimates are little more than back-of-the-envelope guesses. They certainly do not present a forward-looking estimate of how an efficient carrier would provide the elements and services. Moreover, this "supporting" documentation demonstrates a possible upward bias on the part of Qwest "experts" in estimating the times required to accomplish the necessary tasks.[27]

In the prior cost docket, this Commission criticized Qwest's non-recurring cost models on a number of grounds. The Commission noted specifically that those studies were based not on public information, but on estimates made by Qwest subject matter experts that "may be biased upward."[28] The Commission recently expressed that same objection in its Part B Order in this docket.[29] Qwest non-recurring costs studies in this proceeding have corrected none of the problems noted by the Commission. Once again, Qwest has provided only the unvalidated opinions of Qwest employee "experts," none of who appeared before the Commission.[30]

---

[25] Exhibit T-2272 at 3.
[26] Id.
[27] Tr. at 4945-4949.
[28] *In the Matter of Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale*, Consolidated Docket Nos. UT-960369 ("Consolidated Cost Docket"), Eighth Supplemental Order at paras. 450-451.
[29] Part B Order at paras. 122-125.
[30] Tr. at 4132-4134.

WorldCom asks the Commission to order Qwest to support its time estimates in its non recurring cost studies with time and motion studies.

WorldCom did not offer alternative studies to the Commission. Instead, it recommends to the Commission the need for Qwest to redo these cost studies and return with results that are consistent with a TELRIC model. The Washington Commission should direct Qwest to use well-defined and accepted business practices in developing new NRC studies. As an alternative, or to establish interim rates, the Commission should adopt the changes recommended by Mr. Morrison in Exhibit C-2271 and by Mr. Lathrop in Exhibits 2251 and 2253.

2. Factor Issues

In each of Qwest's cost studies submitted in this case, Qwest applied factors to its rates that represent each service's contribution to common costs. As noted above, FCC Rule 51.505 requires forward-looking economic costs to equal the sum of the TELRIC of an element plus a reasonable allocation of forward- looking common costs. WorldCom disagrees with Qwest's application of factors to the Investment Based and Direct Costs in an attempt to recover what Qwest terms Directly Assigned and Directly Attributable Costs.

a. Product management and sales expenses for wholesale services should not be recovered through non recurring charges.

In developing prices, Qwest essentially follows the following algorithm:

	Investment Based Costs
+	Direct Expenses
+	Directly Assigned Costs
+	Directly Attributable Costs
+	Common Costs
=	TELRIC Rate

Directly Assigned Costs. Qwest includes product management and advertising expense, sales expense, and business fees among its Directly Assigned Costs. Qwest should not have to

provide for much, if any, product management or sales expense for nonrecurring charges. WorldCom challenges Qwest's inclusion of a product management expense factor as part of its development of Direct Costs. The majority of activities associated with product management are unnecessary in the case of wholesale services. Further, the costs associated with activities such as product and service identification that are typically recovered through application of a product management expense factor are already being recovered by the ILECs as part of their OSS recovery in the case of network elements. For this reason, WorldCom recommends that the Commission order Qwest to reduce its product management expense factor to zero. The same criticism applies to sales expense factors applied to non-recurring charges for wholesale services.[31]

Directly Attributable Costs. Qwest's Directly Attributable Costs include general support computers, uncollectibles, and intangibles. Qwest applies factors to several categories of Common Costs. These factors add to the total cost of the Investment and Direct Costs.

Any factor allocations not directly linked to a particular non-recurring charge should be removed. Qwest carries the burden of proof to demonstrate that its costs and prices comply with the FCC's pricing methodology. The Qwest cost factor model does not adequately demonstrate why certain costs should apply to non-recurring charges. Since Qwest has failed to satisfy its burden of proof, the Commission should reject Qwest's application of factors to its non recurring costs.

b. Qwest inappropriately inflates its prices by applying its factors on a compounding basis.

In its application of its factors, Qwest erroneously compounds them. After Qwest applies the Directly Assigned factors to the non-recurring Direct Costs to arrive at what it calls total

[31] Exhibit CT-2310 at 3-4.

Direct Costs, Qwest applies its directly attributed factors to the amount of investment based costs that has been increased by the Directly Assigned factors. Qwest then does the same yet again by compounding that product by the common factors. While the total of all the factors is **BEGIN PROPRIETARY** *** **END PROPRIETARY** this compounding error inflates the actual application of additional costs to the investment based costs by an additional **BEGIN PROPRIETARY** *** **END PROPRIETARY** for a total of **BEGIN PROPRIETARY** *** **END PROPRIETARY.**[32]

Qwest then includes one additional worksheet to comport to the requirements set forth by the Commission. Qwest takes the total Direct Costs associated with the work activities for each non-recurring charge and then applies factors to apportion some amount of product management expense, sales expense, and business fees to the Direct Costs associated with the non-recurring activity. As previously noted, product management and sales expense should not be included for non-recurring charges for wholesale services and indeed may already be recovered elsewhere.

Qwest then applies a Commission-approved Directly Attributable factor of 19.62% and a common cost factor of 4.05% to derive its final cost or price for each non-recurring charge. The compounding error again appears in these calculations. WorldCom requests that the Commission order Qwest to modify its factor calculations by removing this inappropriate and expensive compounding effect.

c. Qwest's expense data used for factor development is overstated and outdated.

[32] Exhibit CT-2310 at 5-6.

In its Seventeenth Supplemental Order issued in Phase II of UT-960369[33] the Commission approved a Directly Attributed Expense Factor of 19.62% and a common cost factor of 4.05%. The Commission approved these factors in 1999 based upon testimony filed in 1998. The data used to calculate the factor in 1998 was likely 1997 data or earlier. The company known as Qwest today has changed dramatically since this factor was determined.

U S WEST and Qwest consummated a merger at the end of June 2000, which radically changed the organization upon which the former U S WEST's prior cost studies were based. A significant portion of Qwest's directly attributed expenses and Common Costs are labor related. Qwest has implemented two rounds of significant workforce reductions since the completion of the merger totaling 17,800 job cuts.[34] A third round was announced on December 13, 2001 eliminating an additional 7,000 jobs. Through these three rounds of layoffs, Qwest will have reduced its workforce by 24,800 leaving approximately 55,000[35] employees. Assuming Qwest had a combined workforce of approximately 80,000 (24,800 jobs eliminated + 55,000 remaining jobs) employees when the merger was consummated, over 31% of that workforce will have been eliminated by the spring of 2002. Wall Street analysts expect future layoffs as well.[36]

Clearly Qwest's labor-related and operational costs should be significantly lower today and in the foreseeable future based upon its elimination of 31% of its workforce since June 2000. Qwest indicated in its 3rd Quarter 2001 Form 10Q filed with the Securities Exchange Commission that it had achieved significant cost savings through reductions in employees and operational efficiencies.

---

[33] *In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale*, Docket Nos. UT-960369, et al., Seventeenth Supplemental Order: Interim Order Determining Prices; Notice of Prehearing Conference (September 23, 1999), ¶ 435. ("Seventeenth Supplemental Order")

[34] *Sagging Qwest gets out the ax*, The Denver Post, Business section, December 13, 2001, Exhibit 2312.

[35] *Id*.

[36] *Id*.

Cost of services:

> … Partially offsetting these increases were ***decreases in employee-related costs due to the reduction in the overall number of employees and contractors and other savings generated through cost controls and operational efficiencies since June 30, 2000. Operational efficiencies have been realized through the consolidation of core operational units that provide common services and by leveraging our purchasing power throughout the Company. [emphasis added]***

Selling, general and administrative:

> Selling, general and administrative. Selling, general and administrative expenses, as a percentage of revenues, decreased from 28.2% for the three months ended September 30, 2000, to 27.4% for the three months ended September 30, 2001. For the nine months ended September 30, 2001, selling, general and administrative expenses, as a percentage of revenues, decreased to 26.0% as compared to 29.2% for the nine months ended September 30, 2000. ***The percentage decreases were primarily attributable to the reduction in employee headcount and the number of contractors***, an increase in the pension credit (net of other post- retirement benefits) and lower taxes (other than income taxes).
>
> Selling, general and administrative expenses for the three months ended September 30, 2001 decreased $39 million when compared to the same period of 2000. The decrease was primarily due to a higher pension credit (net of other post-retirement benefits) and lower commissions due to changes in our commission compensation plan. These lower costs were offset somewhat by higher professional fees, uncollectible expenses, marketing costs and occupancy costs relating to the opening of several new CyberCenters. For the nine months ended September 30, 2001, selling, general and administrative expenses decreased $159 million compared to the same period in 2000. ***The decrease was primarily attributable to decreased employee headcount and contractors, a reduction in advertising, lower taxes (other than income taxes), higher pension credit (net of other post-retirement benefits) and lower commissions due to changes in our commission compensation plan. Since June 30, 2000, we have reduced our employee headcount and contractors by approximately 13,400, a portion of which also impacts cost of services.*** Increases in professional fees, uncollectible expenses and occupancy costs relating to the opening of several new CyberCenters partially offset some of the cost decreases.[37] [emphasis added]

Based on the foregoing, a factor determined on 2000 or 2001 data from a post-merger Qwest with known and measurable changes forecasted to occur in early 2002 should be significantly less than a factor set using 1998 or earlier data from the pre-merger U S WEST.

---

[37] Qwest Form 10Q for Quarter Ended September 30, 2001, page 20, Exhibit 2313.

d. Qwest's cost factor model results in lower factors when current expense data is inserted.

The Qwest expense factors model is comprised of one Microsoft Excel workbook. That workbook contains **BEGIN PROPRIETARY** ** **END PROPRIETARY** worksheets. Two of the worksheets include the Qwest MR2A and MR5 data. This information is used by the expense factors model to develop the factors. WorldCom populated the spreadsheets with the more current information provided by Qwest in response to WCI 04-421 (MR2A and MR5) (Exhibit 2315).

The insertion of Qwest's MR2A and MR5 data for the year ended 2000 resulted in an overall decrease in the factors for directly assigned costs of over **BEGIN PROPRIETARY** *** **END PROPRIETARY**. Once the new information is inserted into the expense factors model, the Excel workbook automatically recalculates the factors. The table below presents the results of including more current information.

BEGIN PROPRIETARY

RESULTS OF APPLICATION OF
2000 INVESTMENT AND EXPENSE INFORMATION

Directly Assigned Cost Categories	Related Account Codes	Qwest Developed Factors	Revised Factors
Product Management Expense	6611		
Sales Expense	6612		
Product Advertising Expense	6613		
Business Fees	7240.2-.9		
Sum of all factors			

END PROPRIETARY[38]

[38] Exhibit CT-2314 at 5.

WorldCom requests that the WUTC require Qwest to file a compliance run of its expense factor model using the most currently available information. That information should include data derived from the operations of the company at least through December 31, 2001.

Given that the WUTC has already prescribed figures for directly attributable and common costs, WorldCom does not ask the Commission to revise those factors as a result of this phase of the case. However, should the WUTC find merit in having Qwest perform a compliance run of its expense factor model, the more current information to be made available should also be considered with respect to the directly attributable and common costs.

3. Work Time Estimate Issues

WorldCom included its discussion of these issues in its Overview, Section III.A.1. WorldCom incorporates those comments herein by reference.

4. Discussion of Individual Rates[39]

c. Remote Collocation and Remote Adjacent Collocation (Exhibit 2050 at Section 8.7)

Qwest's Remote Terminal collocation costs include nonrecurring and recurring costs for Space as well as for Fiber-Distribution Interface ("FDI") termination per binder group (25 pairs). The nonrecurring cost for Space is per standard mounting unit ("SMU") of 1.75 vertical inches and is "…associated with the cabinet space and includes the cost of the cabinet and all of the work and materials associated with placement of the cabinet." [40]

Qwest lists a Quote Preparation Fee ("QPF") non recurring charge for Remote Collocation (and Remote Adjacent Collocation) as an individual case basis ("ICB") charge.

---

[39] Mr. Morrison's direct testimony criticizes several of Qwest's NRC studies, including Switched Transport DS1 and DS3 rates, previously located at Section 7.5 of Exhibit 2050. As a result of discovery initiated by WorldCom, Qwest decided to withdraw its proposals for NRCs for switched transport DS1 and DS3 trunks. As a result, no non recurring rates currently apply to these services. Tr. at 4166-4167.

[40] Direct Testimony of Roy Lathrop, Exhibit T-2250 at 30.

Qwest claims that an ICB charge is appropriate for the QPF because the process of establishing a remote collocation is not generally predictable and the survey work required for remote collocation requests may vary.[41] There are several generic problems with ICB charges, including no opportunity for the Commission to ensure they are just and reasonable. In addition, ICB charges have no cost study so there is no assurance that duplicate charges are not assessed. In fact, Qwest's Quote Preparation Fee for its collocation product includes costs associated with engineering functions that duplicate engineering costs that are included in Qwest's Space Construction charge.[42] Once this was pointed out in a recent Arizona proceeding, Qwest was willing to credit the amount of the Quote Preparation Fee toward payment of the Space Construction charge. Thus, the concern for potentially duplicate charge is a real concern.

In the case of the Remote Collocation QPF, Qwest has identified no specific functions that it would perform to be included in this charge that are not already included in the cost study. Indeed, the Remote Collocation cost study includes material, engineering and installation costs, and even includes costs associated with rights-of-way and the "distance between cabinets." If Qwest's other collocation cost studies are any indication, the QPF is associated with engineering activities that duplicate those included in other charges and, if reasonable, should be credited against those charges. If a QPF is to be allowed for Remote and Remote Adjacent Collocation at all, it should be based on reasonable and explicit assumptions and credited against Qwest's Space nonrecurring charge.[43]

d. CLEC to CLEC Collocation (Exhibit 2050 at Section 8.8)

Qwest's CLEC-to-CLEC interconnection service is used to connect together different CLECs' collocation arrangements or multiple collocation arrangements of the same CLEC in the

[41] Direct Testimony of Robert F. Kennedy on Behalf of Qwest Corporation, Exhibit T-2100 at page 9.
[42] Exhibit CT-2250 at 32; Arizona Cost Decision at 40.
[43] Exhibit CT-2250 at 32.

same central office ("CO"). Qwest offers two types of CLEC-to-CLEC interconnection service: "Direct Connection," in which cables (provided and placed by the CLEC) connect together different collocation arrangements, and "Cross Connections," available when the collocation arrangements have available capacity on termination cables at a Qwest intermediate distribution frame and the collocation arrangements are connected by running a "jumper" (cable) between the existing CLEC cables.[44]

(i) Direct Connection (Exhibit 2050 at Sections 8.8.1-8.8.5)

For its Direct Connections service, Qwest assesses a nonrecurring "flat charge" which includes two components, engineering and cable racking (material and installation). Qwest also assesses recurring charges for cable racking on a per foot basis. Qwest assesses separate nonrecurring charges for virtual collocation connections (if one or both collocation arrangements to be connected is a virtual collocation). In addition, Qwest assesses a nonrecurring charge for opening and closing a cable hole, if applicable.

WorldCom disagrees with Qwest's derivation of the nonrecurring "flat" charge for direct connection. Direct Connection service simply connects two collocation arrangements identified by the CLEC, and Qwest does not provide or install the cable itself. Although Qwest's cost study description implies that cost development assumes cable racking is rarely installed, the cost study includes additional assumptions related to cable racking that are derived from Qwest's Collocation Cost Model and act to increase the "flat" charge.[45]

The engineering portion of Qwest's nonrecurring "flat" charge is inflated. Qwest lists ten hours of engineering time, divided into three parts: (1) two hours allotted for functions performed by the Collocation Project Management Center; (2) five and one-half hours allotted

[44] See Exhibit CT-2250 at 4-5. Qwest's proposed charges for Direct Connection appear in sections 8.8.1-8.8.5 on Exhibit 2050.
[45] Exhibit CT-2250 at 5-6.

for functions performed by the Common Systems Planning and Engineering Center ("CSPEC"); and (3) two and one-half hours allotted for functions listed under the title of "Forms/Follow-up."[46]

Qwest's list of engineering activities does not specifically identify whether any activities only need to be performed when and if cable racking is installed. While Qwest nominally assumes that cable racking installation is needed in a small percentage of cases, Qwest's engineering functions are included in every case, possibly misstating engineering costs. To be consistent, Qwest should have assigned the same probabilities used in its cable racking estimates to any engineering tasks that are only required when cable racking must be installed.[47]

Qwest lists the Collocation Project Management Center functions as "application verification, date set, project management." Qwest provides no explanation of what information is verified; if anything, it would be that the collocation arrangements exist in the CO for which an application is submitted, information Qwest should have readily available.[48] Setting a date (such as identifying a standard interval for completion) requires very little time. CLECs should not pay for Qwest to ensure its internal organizations communicate with one another, since that is assumed in an efficient operation. WorldCom recommends the Commission require Qwest to use one hour to develop the costs for Qwest's Collocation Project Management Center functions.[49]

Regarding the Common Systems Planning and Engineering Center, Qwest lists activities including: Initialize Billing Authorization Number (which should be a standardized computer-generated task), Obtain Funding Authorization (which may only be necessary if Qwest installs

[46] Exhibit 2026.
[47] Exhibit CT-2250 at 6.
[48] Exhibit 2026.
[49] Exhibit CT-2050 at 6-7.

cable racking), and Prepare Engineering Package (which should also be a standardized procedure for this service). Qwest also lists tasks such as: Field Engineering Walk Through; Structure Verification; Complete Walk Through Report; Update Design Work Package; Update Engineering Prints.[50] As mentioned above, most of the time Qwest need do little more than identify a cable route, update engineering diagrams (if necessary and specifically associated with this service) and communicate with the CLEC applicant. Qwest does not necessarily conduct an "in-person" walk-through and instead would rely generally on its engineering diagrams to determine whether available structure (such as overhead cable racking) exists. If Qwest's engineering diagrams are not up to date, CLECs should not be forced to pay for Qwest to bring them up to date. These combined activities should take no more than five hours.[51]

Qwest's "Forms/Follow Up" functions are "quality check" and "SICM/ATR cable route walk through."[52] CLECs should not be forced to pay for Qwest to ascertain whether the work for which CLECs are paying is of acceptable quality. Rather than the 2.5 hours designated by Qwest, collocators should pay for no more than two hours of the activities included Forms/Follow-up.

In summary WorldCom recommends the Commission require that Qwest use eight hours to develop its flat charge for direct connection service, one hour for the Collocation Project Management Center, five hours for CSPEC, and two hours for activities included in Forms/Follow-up.[53]

WorldCom also disagrees with the underlying assumptions that Qwest used to develop the costs related to the cable racking portion of Qwest's direct connection flat charge. The cable

[50] Exhibit 2026 at 10.
[51] Exhibit CT-2050 at 7.
[52] Exhibit 2026 at 10.
[53] Exhibit CT-2250 at 8.

racking portion of Qwest's nonrecurring "flat" charge assumes that five percent of the time collocators will require twenty feet of new cable racking (for DS0, DS1 and DS3 cabling), and that ninety percent of the time collocators will require ten feet of new cable racking for fiber cabling. Furthermore, the cable racking cost is developed assuming the capacity of the cable racking is only three cables.[54]

Moreover, the assumptions regarding cable racking seem to be incomplete. While Qwest's cost model description indicates the assumed average amount of cable racking to be installed is small, as mentioned above, Qwest also assumes that 50% of its COs require "Major Aerial Support" to develop per unit costs for aerial support and cable racking. Changing the "% of Offices that Require Major Aerial Support" to zero deletes the portion of the nonrecurring cost associated with cable racking. To the extent that these costs are appropriate for establishing a collocation arrangement, such collocation(s) are established prior to a CLEC ordering Cross Connections service and it is inappropriate to include such costs again here.[55]

It is not consistent with TELRIC principles to include costs for cable racking for CLEC to CLEC interconnection. A TELRIC approach to collocation costs for cable racking would include the cost (based on total demand and developed on a capacity basis) in the cost of the collocation arrangement, for example a cage. Qwest has already assumed sufficient cable racking installation costs as part of its collocation Space Construction charge for physical collocation. Indeed, Qwest's collocation cost model includes cable racking costs that comprise between 15% and 20% of Qwest's "space construction" charge of over $56,000. In other words, a 100 square foot physical collocation arrangement already includes on the order of $8400 to $11,200 for cable racking and overhead support!

[54] Exhibit 2026 at 11.
[55] Exhibit CT-2250 at 9.

If indeed Qwest must add overhead cable racking to provide a CLEC to CLEC connection, it is likely because the collocation arrangements are located in remote parts of the CO, were placed in an inefficient manner, or direct cable routes within Qwest's CO are congested, requiring new cable racking for a new (inefficient) route (or some combination). In any event, if any additional cable racking is required, the requirement arises from Qwest's absolute control over placement of CLECs' equipment in the CO, an issue over which the CLEC has no control and for which CLECs should not be required to pay. If Qwest had placed collocators in an efficient manner, no additional cable racking would be necessary. Consequently, no cable racking should be used to develop the costs of Qwest's "flat" charge.[56]

In the alternative, Qwest should be required to exclude cable racking costs from the nonrecurring portion of the flat charge and include cable racking costs only in the recurring charge based on capacity (described below). A recurring charge structure is appropriate because cable racking, once installed, becomes part of the central office building, available to be used by Qwest and other CLECs.[57]

If cable racking already exists, the correct approach for direct connection costing is to assess a cost for the capacity of cable racking space consumed by the cables. Note that cables are typically routed within COs on overhead cable racks supported from the ceiling. The bulk of cabling in a CO is copper, which is typically placed on wider cable racks (15" to 30"), while fiber and power cables are often placed on narrower (12" or 15") cable racks. The "pile-up" or height of cables on the racking can be over a foot and a half in some areas of a CO.[58]

Qwest did not correctly develop its cable racking costs on a capacity basis. For the cable racking Qwest assumes will be installed (based on the percentages and lengths identified above),

[56] Exhibit CT-2250 at 10-12.
[57] Id. at 12.
[58] Id.

Qwest understates cable racking capacity and thereby overstates cable racking costs. Qwest spreads the cost of the cable racking over three cables, despite the fact that cable racking capacity is many times (orders of magnitude) greater. Indeed, in its cost study, Qwest lists more realistic cable rack capacities, identified as "existing cable racking" and capacities associated with Qwest's Collocation Cost Model. If the Commission permits Qwest to assume cable racking will be installed to develop costs for its Direct Connections service flat charge, WorldCom recommends that Qwest be required to use cable racking capacities that are no less than what it identifies as its existing cable racking capacities.[59]

Qwest's Cable Racking Capacity Assumptions
(Number of cables per rack)

Source	DS0	DS1	DS3	Fiber
CLEC-CLEC cost study input	3	3	3	
Existing Cable Racking	219	161	417	42
Qwest's Cello. Model Inputs	219	322	833	

WorldCom also disagrees with the USWI labor percentage Qwest uses in its cost study. The percentage of Qwest (versus contract) labor listed in Qwest's cost study inputs is not linked to any calculation.[60] It is not clear whether Qwest's collocation model (from which it appears cable racking costs are derived) relies on the same percentage of Qwest labor. In a proceeding in Arizona, Qwest's collocation cost model relied more heavily on more costly contract labor. An Administrative Law Judge Recommendation in that proceeding stated:

> …we find Staff's calculation using 80 percent labor provided by QTI (Qwest) and 20 percent provided by contract labor is consistent with Qwest's experiences in

[59] Id. at 13.
[60] Qwest's cost study lists "USWI percent," which WorldCom assumed to be the percentage of labor comprised by Qwest's installation technicians rather than outside vendors. The input may be used in cable racking installation and virtual collocation installation figures, which appear to be hard-coded rather than developed in the model.

> Arizona, and with a forward-looking network, and should be adopted in this case.[61]

WorldCom recommends the Commission require Qwest to use 80% as the USWI labor percentage to develop its Direct Connection costs.[62]

(ii) Cross-Connections (Exhibit 2050 at Section 8.8.6)

As described above, Qwest's Cross Connection service requires installing (or disconnecting) a jumper cable between CLEC termination cables at a Qwest intermediate distribution frame. The costs for CLEC-to-CLEC Cross Connection installation and disconnection appear in Qwest's nonrecurring cost study, Exhibit 2023 and rely on Exhibit 2024 for backup information. The nonrecurring cost study lists a variety of functions, the time required to perform the functions, the probability the functions will need to be performed and applicable labor rates.[63] The functions are grouped into four categories: Service Delivery Coordinator, Design, Central Office Frames and Service Delivery Implementer.[64]

WorldCom disagrees with Qwest's derivation of the CLEC-to-CLEC cross connection cost because they are inflated. In fact, Qwest lists only a few minutes to actually complete the cross connect, but its "applied time," the total time charged to CLECs, is almost 3 hours! This is absurd and clearly inconsistent with the TELRIC requirement of a forward-looking OSS. Qwest made several errors developing these nonrecurring costs: including costs for unnecessary and inappropriate activities, and overstating costs by treating separately activities that could be

[61] Arizona Cost Decision at page 38-39.
[62] Exhibit CT-2250 at 14.
[63] Qwest's proposed cost is the product of the time, probability and labor rate, which is then multiplied by Qwest's proposed cost factors.
[64] Exhibit 2023.

performed in parallel or in combination.[65] Mr. Lathrop restated Qwest's cost studies to correct for these errors in Exhibit 2251.

One particular example of inflated costs involves a task identified as "circuit design" in the Design category for installation. Qwest's backup documentation supporting the **BEGIN CONFIDENTIAL DISCUSSION *** END CONFIDENTIAL DISCUSSION** than for a CLEC to CLEC Cross Connect, a service for which the CLEC applicant is responsible for providing the "Design Layout Record" (according to Qwest's SGAT section 8.2.1.23.1.4 (Exhibit 2059)). Thus, it would seem that Qwest would need to spend very little time on circuit design for this service.[66]

The notation mentioned above would seem to indicate that Qwest did not intend to change the times and probabilities for the other functions supported by this work paper. The fact that times and manual handling probabilities have not been changed for a document that states these figures are **BEGIN CONFIDENTIAL DISCUSSION *** END CONFIDENTIAL DISCUSSION** calls into question the veracity of the statement, given the change in Qwest's OSS systems since then.

Unnecessary and inappropriate activities contained in its cross connection installation cost include activities required for access service requests ("ASRs") submitted manually, which are unnecessary and inappropriate for carriers that submit ASRs electronically. (These activities appear in the Service Delivery Coordinator group for installation.) Qwest should be required to develop separate costs for electronic and manually submitted ASRs. Qwest has done exactly this for a variety of other cost elements, such as UNE-P Conversion costs and UNE-P New

[65] Exhibit CT-2250 at 15.
[66] Exhibit CT-2250 at 16-17.

Connection costs.[67] Service requests that are submitted manually typically cost more to process than electronic orders, and paying for costs exclusive to manual orders should not penalize carriers that have invested in equipment and facilities to submit orders electronically. WorldCom recommends that the Commission require Qwest to develop costs separately for electronic and manually-submitted orders.[68] In his recommendation for the NRC that applies to electronic orders, Mr. Lathrop eliminated time related to manual order submission in Exhibit 2251.

Qwest also includes time to verify that information contained in its different databases agrees and to resolve errors. The problem of contaminated and nonsynchronized databases arises as a result of past inefficiencies. It is anticompetitive to impose costs on CLECs for Qwest to resolve this situation. With a competitive local service market, Qwest should face pressure to have efficient OSS with clean databases, which reduce the cost and improve the quality of services provided. Making CLECs pay to improve Qwest's databases would force CLECs to improve Qwest's ability to compete and should not be permitted. Furthermore, Qwest's time allotted to functions listed as "verify," "check" and "validate" are inconsistent with a forward-looking OSS, which should screen orders using "front end edits" (thereby rejecting any incomplete orders) and pass information between various systems. WorldCom recommends that the Commission require Qwest to develop costs by removing any costs associated with verifying, checking and validating database information, agreement and contamination resolution.[69] Mr. Lathrop made these adjustments in Exhibit 2251.

Qwest's subject matter experts appear to have provided time estimates for very small activities that were considered to be mutually exclusive, rather than providing time estimates to

[67] See, for example, costs that appear in section 9.23 of Exhibit 2050 at page 7.
[68] Exhibit 2250 at 17.
[69] Id. at 17-18.

complete overall functions. This approach fails to recognize that some activities can be conducted in conjunction with others. For example, Qwest lists the function "check contract on FOC" and separately lists the function "check contract or SIG (Service Interval Guide) on intervals." Another example is that Qwest lists the function "check billing checklist for Contract Number and effective date" and separately lists the function "check billing check list for billing of nonrecurring and recurring rates." Regardless of whether these activities are appropriately included in the cost study, (and they are not since, as explained above, they are inconsistent with forward-looking OSS), Qwest errs in using a method that treats separately these activities that could be performed together in less time. That is, if there were a need to check a contract, it would be more efficient -- and consistent with TELRIC principles -- to check the contract once rather than multiple times for different pieces of information. WorldCom recommends that the Commission require Qwest to develop costs by reducing the time Qwest allots for separate activities that can be performed in parallel or in combination.[70] Mr. Lathrop made these adjustments in Exhibit 2251.

In sum, WorldCom recommends the Commission adopt costs based on the times and probabilities shown in Exhibit 2251, specifically requiring that Qwest develop costs separately for electronic and manually-submitted orders, remove any costs associated with verifying, checking and validating database information, agreement and contamination resolution, reduce Design group time for lack of evidence that the proper service was examined, and reduce the time allotted for separate activities that can be performed in parallel or in combination (provided the activities are not inconsistent with forward-looking OSS).

e. Space Availability Charge (Exhibit 2050 at Section 8.9)

[70] Exhibit CT-2250 at 18-19.

Qwest's proposed space availability non recurring charge or space inquiry report charge relates to a requirement imposed by the FCC in its "Advanced Services Order" that requires an incumbent LEC to provide a requesting carrier with specific information related to a particular LEC premises.

> This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of space since the last report. The report must also include measures that the incumbent LEC is taking to make additional space available for collocation.[71]

Qwest states that its Space Inquiry Report contains the following information for each central office requested: number of collocators within the central office; amount of collocation space available; modifications in the use of space since the last report; whether there is sufficient power; number of CLECs in queue; and whether the premises is equipped with DS3 capabilities.[72]

Qwest's Space Inquiry cost is inflated as a consequence of methodological errors similar to those described above related to other nonrecurring cost studies, including inflated time requirements Qwest uses to develops its cost.

Qwest develops its cost for a Space Inquiry cost in five parts. Qwest assumes: (1) 30 minutes to "verify and match documentation, determine number of collocators in office"; (2) 150 minutes for database verification (COEFM), communication with real estate, SICM's, CO technicians and IOF if grooming or moving circuits is identified; (3) 30 minutes to check to see if building addition is in planning stage, check with switch group to see about upcoming conversions/removals; (4) 30 minutes to "pull report from COE-FM"; and (5) 60 minutes to

[71] First Report and Order and Further Notice of Proposed Rulemaking, *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Released March 31, 1999 at paragraph 58.
[72] Exhibit 2025 at 9.

"review for completeness resolve discrepancies, Quote preparation and processing, data basing."[73]

Qwest's response to Staff discovery request WUTC 01-025 (Exhibit 2064) indicates that Qwest currently "inventories" most of the required information. Presumably, "inventories" means that Qwest maintains and regularly updates the information, it is readily available in a database and hence requires very little time to extract the information.

Qwest lists the functions in part (1) as "verify and match documentation, determine number of collocators in office." Since Qwest "inventories" the number of collocators in a central office, the only need to "match documentation" would be to ensure the number of collocators is retrieved for the correct central office, which is likely the manner in which Qwest tracks the number of collocators (by CO), or to see when (or if) a report was previously provided. WorldCom recommends the Commission require Qwest to use 15 minutes for these functions in developing the Space Inquiry Report cost. Indeed, this recommendation is generous, since retrieving a number from a database should take no more than 5 minutes and CLECs should not be required to pay for Qwest to verify its documentation.[74]

Qwest lists the functions in part (2), as "database verification (COEFM), communication with real estate, SICM's, CO technicians and IOF if grooming or moving circuits is identified." The time Qwest allots for these functions implies that they are "not inventoried," such as modifications of space, measure to be taken to make additional space available, and a description of available space. Obtaining this information should take much less time than Qwest allots, perhaps only 30 minutes, since the group developing the report should be able to contact quickly the group(s) possessing the information, which should be readily available. For example, up-to-

[73] Id.
[74] Exhibit CT-2250 at 22-24.

date diagrams should show available space and CLECs should not pay if Qwest's engineering diagrams are not kept up to date. WorldCom recommends the Commission require Qwest to use 60 minutes in developing the cost for these functions.[75]

Qwest lists the functions in part (3) as "check to see if building addition is in planning stage, check with switch group to see about upcoming conversions/removals." The information listed in this item should be readily available to Qwest's real estate and switch planning groups. As explained with respect to the functions performed in part (2), while Qwest may not inventory these items for the Space Inquiry Report, the information should be readily available to those responsible for building additions and switch conversions. Indeed, the group responsible for obtaining all the information for a Space Inquiry Report should have a standard email to send to the necessary departments for each Report. CLECs should only pay for information obtained through efficient internal communication. WorldCom recommends the Commission require Qwest to use 15 minutes in developing the cost for these functions.[76]

Qwest lists the functions in part (4) as "pull report from COE-FM." Obtaining a report should take less time than Qwest allots and WorldCom recommends the Commission require Qwest to use no more than 15 minutes in developing the cost for this function.[77]

Qwest lists the functions in part (5) as "review for completeness, resolve discrepancies, Quote preparation and processing, data basing." CLECs should not be required to pay for Qwest to ensure that its previous functions were performed completely and without any internal conflicts. Since Qwest's Space Inquiry Report charge is a flat rate, any "quote preparation" simply requires identifying the known charge. Qwest should have a standard format for its Space Inquiry Report, so preparation and processing time should be minimal. WorldCom

[75] Exhibit CT-2250 at 24-25.
[76] Exhibit CT-2250 at 25.
[77] Id. at 25-26.

recommends the Commission require Qwest to use no more than 15 minutes in developing the cost for these functions.[78]

In summary, in order to comply with the FCC's requirements that Qwest's costs be least cost, most efficient and forward-looking, WorldCom recommends the Commission require Qwest use the following times to develop the Space Inquiry cost (the numbers corresponding to Qwest's cost support described above): (1) 15 minutes (2) 60 minutes (3) 15 minutes; (4) 15 minutes; and (5) 15 minutes. Qwest's CSPEC group performs the first four functions, and the last is performed by the Infrastructure Availability Center ("IAC"). In providing a Space Inquiry Report, some functions (such as e-mailing various departments) can be done in parallel with others. WorldCom's recommendation should serve as an upper bound of the time required.

f. Space Optioning (Exhibit 2050 at Section 8.10)

Space Optioning provides a prospective collocator with the ability to reserve collocation space without occupying that space. In the event space is constrained in a central office to such an extent that the prospective collocator's space reservation (should its option be exercised) would preclude another collocator from obtaining space in the central office, the prospective collocator retains the right to use the space it reserved.[79] Qwest initially presented a cost study for a nonrecurring charge of $1807.17 for a Space Option Administration Fee, which is "intended to recover the cost of processing the application, feasibility, common space engineering, records management, and administration of the right of first refusal process."[80] In response to Mr. Lathrop's direct testimony, Qwest acknowledged that it had made an input error by inserting figures greater than 1.0 for probabilities associated with activities performed by its

[78] Id. at 26.
[79] Exhibit CT-2250 at 27.
[80] Exhibit T-2100 at page 13 and Exhibit 2028.

Infrastructure Availability Center. Inserting probabilities equal to 1.0 changed Qwest's recommendation to $1097.24.[81]

The Space Optioning service appears primarily to enable a CLEC to reserve space.[82] In addition to maintaining the CLEC's request (specific central office, amount and type of space) in queue, and possibly notifying the CLEC should the option expire or be exercised at the CLEC's request (which would invoke Qwest's usual rates and charges), little else would seem to be required of Qwest.

WorldCom disagrees with Qwest's underlying assumptions. Qwest uses inflated time requirements to develop its Space Optioning cost. For example, Qwest includes engineering hours but fails to justify why any engineering is required prior to a CLEC exercising its Option and occupying space. Prior to a CLEC occupying space, Qwest's regular collocation-related charges would be invoked. According to Qwest's SGAT, these charges include a "Quote Preparation Fee" ($4,195.90 for cageless and virtual collocation; $4,561.19 for caged physical collocation) which includes costs associated with engineering functions. In addition, Qwest's "space construction" charge ($56,145.24 for a 100 square foot cage) includes a significant amount of engineering costs.[83] While in some jurisdictions Qwest had planned to credit the Quote Preparation Fee against the engineering component of its Space Construction charge, no such indication appears in its SGAT. [84]

Qwest assumes a total of 16 hours are required for Space Optioning, 2 hours by Product Management Implementation ("PMI"), 9 hours by the Common Systems Planning Engineering Center ("CSPEC") and 5 hours by the Infrastructure Availability Center ("IAC"). The PMI

[81] See Exhibit 2050 at 8.10.
[82] Exhibit 2028 at 3.
[83] Exhibits 2058 and 2059.
[84] See Section 8.3.1.3 of Qwest's SGAT (Exhibit 2059), the definition of Quote Preparation Fee and Exhibit CT-2250 at 28.

function is described as "overall project management and coordination" under the subtitle "job monitoring, order validation, scheduling."[85] Qwest should be able to conduct scheduling and validate the order in very little time. Since Qwest may need to communicate with the CLEC regarding exercising its Option, WorldCom recommends Qwest use no more than one hour for these functions.[86] The SCPEC time allotted to engineering should be excluded because the engineering charges associated with Qwest's Quote Preparation Fee and Space Construction charge is more than sufficient should a CLEC decide to collocate. Qwest lists the same amount of time for CSPEC to perform "Implementation of First Right of Refusal" and "First Right of Refusal" and (though it is unclear exactly what activities are involved) only one should be permitted.[87]

Finally, the times associated with the tasks to be performed by the IAC ("Order validation," "Quote," "Billing Work," and "CPMC First Right of Refusal") are overstated. If the PMI is conducting "order validation" it is unclear why CLECs should also pay for the IAC to conduct "order validation" and WorldCom recommends Qwest be permitted no time for this duplicate function. Given the charge for Space Optioning is a nonrecurring charge, it is unclear what functions are performed for "Quote." Billing Work should be able to be completed relatively quickly and Qwest provides no reason to justify the time listed for the IAC to perform the function "CPMC First Right of Refusal" (especially with PMI and SCPEC also performing First Right of Refusal). WorldCom recommends that Qwest be required to use 2 hours for the IAC to develop its Space Optioning cost.[88]

[85] Exhibit 2028 at 9.
[86] Exhibit CT-2250 at 29.
[87] Id.
[88] Id. at 29-30.

In summary, WorldCom recommends the Commission require Qwest to use 4 hours in developing the cost for its Space Optioning nonrecurring charge: 1 hour for PMI, 1 hour for CSPEC, and 2 hours for the IAC.

j. Multiplexing (Exhibit 2050 at Section 9.6.8)

Qwest proposes $1530.45 for installation of multiplexing and $995.10 for disconnection. WorldCom disagrees with Qwest's proposal. In Exhibit 2271 at page 6, WorldCom recommends changing the installation charge to $463.79 and the disconnection charge to $524.15. Qwest includes unnecessarily work tasks and redundant activities in its proposed multiplexing non recurring rates.

Work items are tasks that are chained together to complete a process. These tasks are the primary functions, usually, of technicians. These functions become repetitious for the technician and it is normal and expected for the technician to know the detail work items of his job well. It is also normal and expected for the technician to know how the task impacts individual customers. All of this is based on an experienced technician. In performing the day-to-day job, the technician does not need to nor do expectations mandate that, every bit of information relative to the job be verified over and over.[89]

A closer look at the work items also uncovers a pattern of work items that are redundant. The service delivery coordinator and design technician have work items involving process terminologies of verify, check and validate. Other work items incorporate terms such as validate into the description and this term also involves some amount of measured work, resulting in the inflation of work item times in the NRC studies. With the information provided by Qwest, it is impossible to determine how much of the work item time involves the process of validation.

[89] Exhibit T-2270 at 25-27.

As a result of the excessive validation work items, redundant work tasks and insufficient support for the activities, WorldCom reduced the time for work items by 700.42 minutes in the installation study and 524.15 minutes in the disconnect study. [90] WorldCom asks the Commission to reject Qwest's multiplexing cost study and order it to resubmit studies that are consistent with TELRIC requirements. In the alternative, or in the interim, WorldCom asks the Commission to adopt its recommended changes to the study.

n. Local tandem switching (Exhibit 2050 at Section 9.10)

This is a situation where Qwest's testimony fails to provide any sort of meaningful discussion as to what it is proposing.[91] Mr. Price's direct testimony noted that Ms. Malone's testimony was not helpful in providing an understanding of Qwest's proposal, and that WorldCom was awaiting a response to discovery to Qwest on this issue. The purpose of WorldCom's discovery request was to obtain an explanation as to how Qwest would provide unbundled tandem switching to a CLEC.[92]

Unfortunately, Qwest's response to WorldCom's request No. 01-008[93] failed to provide any insight as to how Qwest would provide tandem switching as a UNE to a CLEC. Because neither Qwest's testimony nor its response to WorldCom's discovery permit a determination of what, precisely, Qwest is seeking to recover by way of its proposed unbundled tandem switching charges, WorldCom urges the Commission to reject Qwest's proposal in this area.[94] Qwest bears the burden of proof to demonstrate that its costs and rates are just, reasonable and otherwise consistent with the FCC's TELRIC principles. Because the evidence in this record fails to

[90] Exhibit 2271 at 6.
[91] See Exhibit T-2130 at 3-4.
[92] Exhibit T-2230 at 21.
[93] See response from Qwest to WorldCom's request 01-008, Exhibit 2235.
[94] Exhibit T-2232 at 3-4.

demonstrate how and when Qwest's proposed local tandem NRCs apply, Qwest has failed to satisfy its burden of proof.

u. Customized Routing (Exhibit 2050 at Section 9.13)

(i) Qwest has wrongfully refused to provide WorldCom with customized routing in violation of the Act and the parties' interconnection agreement.

1. Introduction

"Customized routing" enables a requesting competitive local exchange carrier ("CLEC") to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the CLEC's customers.[95] One use for custom routing is to carry calls from Qwest's switch to the CLEC's Operator Services and Directory Assistance ("OS/DA") platform in order to allow the CLEC to self-provision OS and DA services to its customers. WorldCom desires to self provision OS and DA services to its customers. It has designated its existing Feature Group D trunks as the trunks to which it desires Qwest to route its customers' OS/DA calls. Qwest refuses to comply with WorldCom's request. This refusal not only violates the parties' interconnection agreement, it also violates the Act[96] and FCC orders. WorldCom therefore asks the Commission to order Qwest to provide customized routing as requested by WorldCom.

2. Background

In June 2001, WorldCom and Qwest negotiated an amendment to their interconnection agreements, including the agreement involving MCImetro Transmission Access Services ("MCIm") in Washington, to address unbundled network element platform ("UNE-P") issues (the "UNE-P" Amendment"). Included in the UNE-P Amendment are terms requiring Qwest to

[95] UNE Remand Order at para. 441, n. 867.
[96] 47 U.S.C section 153 et. seq.

provide WorldCom's regulated entities with customized routing over Feature Group D trunks. The UNE-P Amendment provides the following, in pertinent part:

> 2. Customized Routing
>
> 2.1 Description
>
> 2.1.1 Customized Routing permits MCIm to designate a particular outgoing trunk that will carry certain classes of traffic originating from MCIm's end-users. Customized routing enables MCIm to direct particular classes of calls to particular outgoing trunks, which will permit MCIm to self-provide or select among other providers of interoffice facilities, operator services and directory assistance. Customized routing is a software function of a switch. Customized Routing may be ordered as an application with Resale or Unbundled Local Switching.
>
> 2.1.2 MCIm may elect to route its end-user customers' traffic in the same manner as Qwest routes its end-user customers' calls using existing Qwest line class code(s). This option eliminates assignment and deployment charges applicable to new MCIm line class code(s) required for custom or *unique* MCI routing requests, as described in this Amendment. (emphasis added)
>
> 2.2 Terms and Conditions
>
> 2.2.1 Customized Routing will be offered on a first-come, first-served basis.
>
> 2.2.2 MCIm has three options by which to route its end-user customers' calls:
>
> a. MCIm may elect to route all of its end-user customers' calls in the same manner as Qwest routes its end-user customers' calls. This option allows MCIm to use the same line class code(s) used by Qwest and thus eliminates line class code(s) and deployment charges to MCIm.
>
> b. MCIm may elect to custom route its end-user customers' calls differently than Qwest routes its end user traffic. MCIm may choose different routing by traffic type, by prefix, etc. In this option, there will be a charge for the establishment and deployment of a new MCIm line class code(s). If a MCIm line class code(s) was previously established and deployed at a particular end office, only a deployment charge will apply per new end office location.
>
> c. *MCIm may custom route operator services or directory assistance calls to unique operator service/directory services trunks, i.e. existing feature group D trunks.* (emphasis added)

2.2.3 In options (a) and (b), and (c) above, MCIm shall provide comprehensive routing information associated with any routing request. Qwest will provide line class code(s) to MCIm for inclusion in MCIm LSR (Local Service Request).

See Exhibit 2057 at 19-20.[97]

On March 14, 2002, in response to a WorldCom request, Qwest provided WorldCom with the form required to process a customized routing request.[98] On March 19, 2002, WorldCom submitted the completed customized routing form and two attachments that describe WorldCom's customized routing specifications in detail. WorldCom requested customized routing over its existing Feature Group D trunks. Feature Group D is an access arrangement that allows end users to reach their presubscribed interexchange carrier ("IXC") through 1+ dialing. Feature Group D trunks, in turn, connect an incumbent LEC's and an IXC's offices with each other.[99] The attachments demonstrate how MCI WorldCom accomplishes OS/DA customized routing via line class codes in its own network, and contain standard vendor-supplied switch routing features and functions.[100]

On April 5, 2002, WorldCom and Qwest representatives held a "pre-order" meeting. During that meeting, Qwest representatives stated that no technical constraints existed to WorldCom's request, but Qwest had regulatory concerns. Qwest represented that a WUTC order prohibited Qwest from "regenerating" calls as requested by WorldCom. Qwest did not have a cite to the regulation, but promised to provide it to WorldCom after the meeting. On April 19, 2002, WorldCom sent a letter to Qwest, summarizing the events of the April 5, 2002 meeting

---

[97] On October 31, 2001, the WUTC approved the UNE-P Amendment to the MCIm/Qwest Interconnection Agreement. (Exhibit 2057)

[98] Exhibit 2186.

[99] *In the Matter of the Petition of WorldCom Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corp. Comm'n Re: Interconnection Disputes with Verizon Virginia, Inc. for Expedited Arbitration*, CC Docket Nos. 00-218/249, DA 02 1731, Memorandum Opinion and Order (July 17, 2002) at para. 533 ("FCC Verizon Arbitration Order")

[100] Exhibits 2187 and C-2187

and requesting support for Qwest's position. WorldCom also requested a conference for WorldCom and Qwest engineers to further discuss the technical aspects of the request.[101] In addition, WorldCom served Qwest with discovery in the pending cost case in Washington, requesting the citation to the Washington order that prohibited Qwest from "regenerating" calls. Qwest ultimately responded that it was not aware of any such order.[102]

On April 30, 2002, Qwest responded to WorldCom's letter, stating that it was "ready, willing and able" to provide customized routing consistent with WorldCom's interconnection agreement. Qwest stated that it would require WorldCom to purchase "unique" direct trunks between WorldCom's switches and each Qwest end office that WorldCom wished to serve. Qwest further maintained that "Customized Routing does not include number reorigination or dialed digit manipulation. An amendment to your existing interconnection agreement will be required for billing of these calls on a flat-rated basis."[103]

Qwest testified that no technical impediment exists to providing customized routing over WorldCom's Feature Group D trunks. Rather, Qwest refuses to comply with WorldCom's request because it has made a "business decision" not to translate a 411 call to a toll call and provide common transport.[104]

Pursuant to inter-company dispute escalation processes, the parties later exchanged letters between company representatives that essentially repeated the positions stated previously.

3. Qwest's conduct breaches the MCIm/Qwest Interconnection Agreement.

The Qwest/MCImAgreement allows for three types of call routing by WorldCom. First, WorldCom may choose to route its OS/DA calls in the same manner that Qwest routes OS/DA

[101] Exhibit 2188.
[102] Tr. at 4682-4683.
[103] Exhibit 2192
[104] Tr. at 4756-4757.

calls for its end user customers. Second, WorldCom may choose to route its customers' calls differently than Qwest through routing by traffic type or prefix. The third option allows WorldCom to custom route its operator services and directory assistance calls to "unique" or designated trunks, that is, "existing Feature Group D trunks." WorldCom chose the third option. The specific naming of "existing Feature Group D trunks" in section 2.2.2 (c) of the UNE-P Amendment expressly permits the type of customized routing now requested by WorldCom. Qwest's interpreting "unique" to require new, dedicated trunks at each Qwest end office flatly ignores and is inconsistent with, the explanatory phrase at the end of the sentence, particularly the word "existing."

Qwest's interpretation would also require WorldCom unnecessarily to construct an expensive, inefficient and duplicative network to carry its customers' OS and DA traffic. The Agreement should not be interpreted to intend to achieve such an uneconomic and wasteful result.

While the words used in Qwest's letters are crafted to make it appear that Qwest is accommodating WorldCom and encouraging WorldCom to pursue its request, the bottom line is Qwest has repeatedly refused to provide WorldCom with customized routing over WorldCom's designated Feature Group D trunks. In addition, it is undisputed that no technical impediments exist to prevent Qwest from complying with WorldCom's request.

WorldCom has provided Qwest with comprehensive routing information and has otherwise satisfied its obligations under the contract. Qwest's reasons for refusing to comply are not permitted by the Agreement.

Moreover, nothing in the Agreement requires WorldCom to pursue the BFR process for customized routing. That process will only result in further delay and expense to WorldCom.

Qwest already has in its possession the information that it needs to process the request. It simply refuses to do so. Qwest is in breach of its interconnection agreement with WorldCom. WorldCom requests this Commission to remedy Qwest's breach of contract by requiring it to provide WorldCom with customized routing over its existing Feature Group D trunks.

4. Qwest's conduct violates the Act and FCC Orders.

a. Qwest's refusal to provide customized routing over WorldCom's designated trunks violates Qwest's section 251(c)(3) obligation to provide nondiscriminatory access to unbundled network elements.

Qwest's conduct also violates Section 251(c)(3) of the federal Telecommunications Act of 1996.[105] Section 251(c)(3) requires ILECs to provide nondiscriminatory access to network elements. Customized routing is part of the unbundled switching network element.[106]

The FCC's *UNE Remand Order* recognizes the importance of switch routing to CLECs attempting to enter the local exchange market. [107] The FCC found:

> . . . incumbent LECs may not withhold access to switch routing tables as part of the unbundled local switching element because doing so would jeopardize the goal of the 1996 Act to bring rapid competition to the greatest number of customers. One of the most essential functions a switch performs is to provide routing information that sends a call to the appropriate destination. Requiring requesting carriers to engage in the potentially lengthy process of compiling traffic studies and populating routing tables with data in the incumbent LEC's unbundled switch would frustrate a requesting carrier's ability to use unbundled local circuit switching to serve customers quickly.

With regard to customized routing, the FCC specifies that the requesting CLEC is entitled to designate the trunks on which the ILEC must route OS/DA traffic:

> Customized routing permits requesting carriers to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the requesting

[105] 47 U.S.C. section 153 et. seq.
[106] 47 CFR section 51.319 (c)(1)(iii)(B) ("all features, functions and capabilities of the switch, which include but are not limited to: (B) All other features that the switch is capable of providing, including but not limited to, customer calling, customer local area signaling service features, and Centrex, as well as any technically feasible customized routing functions provided by the switch.")
[107] *UNE Remand Order at paragraph 251.*

> provider's customers. This feature would allow the requesting carrier to specify that OS/DA traffic from its customers be routed over designated trunks, which terminate at the requesting carrier's OS/DA platform or a third party's OS/DA platform. [108]

The FCC's definition of customized routing states that it is WorldCom, and not Qwest, that is entitled to designate the trunks on which Qwest will route WorldCom's OS/DA traffic. Qwest has no right to designate that WorldCom establish separate trunks.

Moreover, the FCC recognized the ILECs' obligations to provide customized routing specifically over Feature Group D trunks in its review of one of BellSouth Louisiana's section 271 applications.[109] The FCC directly addressed the problem that BellSouth would not provide customized routing using Feature Group D signaling. Because MCI did not demonstrate that it had actually requested this method of customized routing from BellSouth, the FCC found the record inconclusive. Nonetheless, the FCC concluded that, absent technical infeasibility, an ILEC's failure to provide customized routing using Feature Group D signaling violates the Act. The FCC Order reads:

> MCI raises a separate challenge to BellSouth's customized routing offering. MCI claims that BellSouth will not "translate" its customers' local operator services and directory assistance calls to Feature Group D signaling. As a result, MCI cannot offer its own operator services and directory assistance services to customers it serves using unbundled local switching. MCI, however, fails to demonstrate that it has requested Feature Group D signaling, and BellSouth claims that it has never received such a request. Thus, the record is inconclusive as to this objection. We believe, however, that MCI may have otherwise raised a legitimate concern. If a competing carrier requests Feature Group D signaling and it is technically feasible for the incumbent LEC to offer it, the incumbent LEC's failure to provide it would constitute a violation of section 251(c)(3) of the Act. Our rules require incumbent LECs, including BOCs, to make network modifications to the extent necessary to accommodate interconnection or access to network elements.[110]

---

[108] UNE Remand Order ¶ *441 n.867*.
[109] In re BellSouth Corp, BellSouth Telecom. Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana, CC Docket No. 98-121, 13 FCC Rcd 20599 (October 1998) at ¶ 221.
[110] *Id*. at ¶ 226.

Here WorldCom has requested customized routing from Qwest through Feature Group D signaling. Qwest agrees that it is technically feasible. The FCC has clearly stated that under those circumstances, its rules require Qwest to make network modifications necessary to accommodate WorldCom's customized routing request. Qwest's failure to do so constitutes a violation of section 251(c)(3) of the Act.[111] Several state commissions agree.[112] To remedy this violation, the Commission should order Qwest to accommodate WorldCom's request.

b. Qwest's conduct thwarts the development of competition in the local exchange market.

Qwest's conduct also violates the Act and the FCC Orders in that it prevents WorldCom from efficiently competing with Qwest in the local exchange market. WorldCom's self-provisioning of OS/DA offers a number of advantages to WorldCom and its customers. First, self-provisioning is much cheaper for WorldCom than purchasing OS/DA service from Qwest, which offers WorldCom the opportunity to operate more efficiently and compete more effectively. Qwest's price for its OS is approximately four times more expensive than WorldCom's cost to perform the same function with WorldCom's operators. Qwest's price for Local Directory Assistance of $0.35 per a call is approximately one-third more expensive than WorldCom's cost to perform this same function using WorldCom operators. Qwest also seeks to

[111] FCC Verizon Arbitration Decision at paras. 532-540.

[112] For example, an Administrative Law Judge in Minnesota concluded that WorldCom and others demonstrated that Qwest improperly did not accommodate technologies used for customized routing as required by the FCC, and therefore required Qwest to offer OS/DA as a UNE. *See In re a Commission Investigation into Qwest's Compliance with Section 271(C)(2)(B) of the Telecommunications Act of 1996; Checklist Items 3, 7, 8, 9, 10, and 12;* OAH Docket No. 12-2500-14485-2, PUC Docket No. P-421/C1-01-1370, State of Minnesota Office of Administrative Hearings for the Minnesota Public Utilities Commission, (May 8, 2002) at paras. 102-104. ("Minnesota 271 ALJ Recommendation") This recommendation was recently adopted by the Minnesota Commission; See also *Application by Pacific Bell Telephone Co. (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, LLC (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Application 01-01-010,CA PUC Decision, (September 20, 2001) at 13; *Petition of MCImetro Access Transmission Services, LLC et al. for Arbitration with Southwestern Bell Telephone Co. under the Telecommunications Act of 1996*, Texas PUC, Docket No. 24542, Arbitration Award (April 29, 2002) at 163-165; *In the Matter of the Application of Ameritech Michigan for Approval of a Shared Transport Cost Study and Resolution*, Case No. V-12622, Opinion and Order (March 19, 2001) at 10-11.

assess WorldCom charges for trunking and branding; charges WorldCom does not have to add to the cost of providing these services if it is able to self-provision OS and DA services. All of these factors diminish WorldCom's ability to serve local customers profitably.[113]

Needless to say, one of the factors WorldCom considers in determining whether to enter the local market is the cost of providing services and the resulting probability that it will be able to compete profitably. Unless WorldCom is provided the opportunity to provision its own service at a resulting reduced rate, WorldCom will be subject to discriminatory service and be required to maintain complete dependence on Qwest and the quality of service it chooses to provide its own customers.

Self-provisioning will also allow WorldCom directly to control its OS/DA service, which will enable it to develop and deploy new and innovative services. Additionally, self-provisioning will enable WorldCom to offer a single, ubiquitous OS/DA service, rather than relying on a piecemeal collection of ILECs to provide service. As the Act and FCC regulations contemplate, new entrants should be provided with an opportunity to go beyond simply leasing unbundled network elements to use them in cost saving or new and innovative ways.[114] This will result in additional choice for consumers and competitors would have a meaningful opportunity to compete by offering consumers new products, or by offering better service on existing products.[115]

Self-provisioning will also provide WorldCom with the non-discriminatory access required by the Act and will permit WorldCom to compete effectively with Qwest for these services. The FCC recognizes the importance of these services to CLECs:

---

[113] Exhibit T-2330 at 4-5.
[114] See e.g., *47 C.F.R. § 51.309(a)*.
[115] Id.

> As the Commission explained in the *Local Competition First Report and Order*, using unbundled network elements and resold services present different opportunities, risks, and costs, in connection with providing local telephone service. These differences influence the entry strategies of potential competitors. The Commission stated that carriers using unbundled elements will have greater opportunities to offer services that are different from those services offered by the incumbents.[116]

The FCC also stated:

> Two fundamental goals of the Act are to open the local exchange and exchange access markets to competition and to promote innovation and investment by all participants in the telecommunications marketplace. To further the goal of opening the local market to competition, we may consider how access to specific unbundled network elements will encourage the rapid introduction of local competition to the benefit of the greatest number of consumers." [117]

Qwest's conduct in refusing to provide customized routing to WorldCom via the method designated by WorldCom hinders WorldCom's ability to compete effectively and efficiently in the local exchange market. To rectify the problem, the Commission should order Qwest to comply with WorldCom's customized routing request.

(ii) WorldCom objects to Qwest's pricing proposals for customized routing.

Qwest has proposed pricing for three categories of charges it identifies under the customized routing category. The first two refer to pricing if the CLEC chooses dedicated trunk Line Class Codes that essentially route OS/DA calls the way that Qwest does for its OS/DA calls. And in the third case Qwest, lists "ICB" or "individual case basis" as the appropriate amount for other types of customized routing. Based on the evidence in the record, however, it is impossible to determine whether Qwest's rates for customized routing are necessary, reasonable and nondiscriminatory. For example, Qwest's nonrecurring charge for "all other custom routing" is vague and undefined, particularly if it is intended to be levied on an individual customer basis.

---

[116] *UNE Remand Order* at 68.
[117] Id. *at 103*.

Moreover, WorldCom objects to Qwest's proposed pricing to the extent that it reflects Qwest's individual development costs to implement a customized routing scheme as between all carriers. Consistent with Section 251(b)(3) and Section 251(c)(3) requirements, WorldCom believes that CLECs should only be required to pay for routine implementation costs of customized routing. To require otherwise would be both unreasonable and discriminatory. Since the FCC has determined that the provision of customized routing is a condition precedent to the elimination of Qwest's duty to provide OS/DA services as a UNE under Section 251(c)(3), CLECs should then not be penalized if Qwest implements a high cost customized routing solution. If Qwest is allowed to simply push off the costs of developing a solution onto each individual competitive carrier, that carrier is not only burdened by the fact that it can no longer obtain DA/OS services at UNE rates, but then must bear the inefficient costs of developing a customized routing solution. Such a result is patently discriminatory, not only to competitive carriers as a whole, but it would also allow Qwest to discriminate against carriers individually based upon individual customized routing needs.

WorldCom also objects to Qwest's customized routing charges to the extent that it forces WorldCom to pay for switching services for which it already pays Qwest either on a facilities-based or UNE-P basis.

Qwest's proposed pricing regarding customized routing is too vague. WorldCom has provided its routing needs to Qwest. WorldCom asks this Commission to order Qwest to submit a verifiable cost study to the Commission based on WorldCom's customized routing needs. The Commission and the parties can then evaluate the proposal based on concrete information.

v. Common Channel Signaling/SS7 (Exhibit 2050 at Section 9.14)

It is not at all dear what Qwest is proposing with regard to SS7 charges. Not only is the testimony on these rate elements vague, but a review of Qwest's SGAT failed to turn up any corresponding language on which a wholesale customer could rely to interpret the testimony. WorldCom attempted to obtain from Qwest clarification of its proposal through discovery. However, the Qwest's response provided no way to determine with particularity the circumstances under which Qwest proposes to assess its proposed rates on CLECs.[118] Qwest bears the burden of proving the justification for its rates. Because Qwest has failed to provide any sort of meaningful discussion of what is being proposed for the non recurring charges in Section 9.14 of Exhibit 2050, Qwest's recommended SS7 charges should be rejected.

x. UNE Combinations (Exhibit 2050 at Section 9.23)

Absent availability of UNE combinations at reasonable, cost-based rates, it will be a very long time indeed before residential and small business customers will reap the benefits of competition. As the FCC noted in the UNE Remand Order:

> We continue to believe that one important purpose of the unbundling provisions of the Act is to permit competitive LECs to compete with the same economies as the incumbents, especially in the early stages of local competition, when their networks are limited in their reach, and their customer bases are necessarily small. ***The incumbent LECs still enjoy cost advantages and superiority of economies of scale, scope, and ubiquity as a result of their historic, government-sanctioned monopolies. These economies are now critical competitive attributes and would belong unquestionably to the incumbent LECs if they had "earned" them by superior competitive skills. These advantages of economies, however, were obtained by the incumbents by virtue of their status as government-sanctioned and protected monopolies. We believe that these government-sanctioned advantages remain barriers to the requesting carriers' ability to provide a range of services to a wide array of customers, and that their existence justifies placing a duty on the incumbent carriers to share their network facilities.*** Indeed, Congress, in section 259 of the Act, recognized expressly the benefits that the incumbent LECs have as a result of their economies of scale and scope. Section 259 requires the Commission to ensure that incumbent LECs make their

118 See response from Qwest to WorldCom's request 01-010, Exhibit 2234.

> infrastructure available to qualifying carriers on terms and conditions that permit the qualifying carriers to "fully benefit from the economies of scale and scope of such [incumbent] local exchange carrier." Although section 259 of the Act is different from section 251 in that qualifying carriers obtaining infrastructure from the incumbent LEC pursuant to a section 259 agreement may not use such infrastructure to compete with the incumbent LEC in its service territory, both sections make the incumbent LECs' broad economies of scale and scope available to other carriers by requiring them to grant other carriers access to their networks.[119]

In other words, the extensive and ubiquitous networks of Qwest and Verizon were constructed at the expense of their historic monopoly ratepayers, and with the advantage of having a government-sanctioned monopoly protecting them from competition. Those networks are on the ILECs' books with valuations in the area of billions of dollars, and cannot possibly be replicated by competitors in any reasonable time frame.[120]

Thus, the policy question facing this Commission is relatively simple. Does it want to favor one particular provider in a given area (i.e., Qwest in its certificated area and Verizon in its) without regard to the fact that the provider possesses such a huge competitive advantage by virtue of its monopoly heritage? Or, does the Commission want to favor the competitive ***process***, whereby neither Qwest nor Verizon is allowed to use its monopoly heritage in such a manner as to frustrate broad-based competition for residential and small business customers? Those are the questions the Commission must keep in mind in deciding what non-recurring charges Qwest will be permitted to charge in certain instances -- i.e., where it claims that there is not "existing combination" of elements for use by CLECs. It is within this context that WorldCom asks the Commission to consider the testimony of Mr. Morrison on the issue of UNE combinations.

---

[119] UNE Remand Order at ¶ 86.

[120] Exhibit T-2230 at 18-19.

At Sections 9.23.2.1 and 9.23.2.2 of Exhibit 2050, Qwest proposes non recurring rates for UNE-P New Connection. The cost study that Qwest offered to support these rates is Exhibit 2023. WorldCom disagrees with Qwest's proposal because Qwest failed to satisfy its burden of proof that they comply with TELRIC principles. Mr. Morrison addressed his concerns in his testimony and recommended changes, as indicted in Exhibit C-2271.

Qwest's cost studies identify work items and work groups associated with each rate element. Qwest's Loop Provisioning Center work item times are overstated. In response to WorldCom's Second Set of Data Requests No. 02-354 part a., (Exhibit 2275) Qwest responded with Confidential Attachment A (Exhibit C-2275). Confidential Attachment A describes a multiple step process that is not included in the LPC work items. Also, Confidential Attachment A does not provide time estimates for the work items included in the attachment. Further, Confidential Attachment A refers to an additional multi-step process that is not a part of the work items for the LPC NRC study. Finally, no work times are indicated anywhere for the additional multi-step process.[121]

All of the work items in the LPC are stated as a single time without any task breakout. The single time is not supported by any detail task in the NRC study and the supporting documentation, Confidential Attachment A, refers to additional work items that are unsupported. In this case, a single SME provides all of the time estimates without any references to methodology used to establish the times or even a list of tasks included in the time estimate. A single SME providing a one-time estimate, without any additional support, is insufficient to attest to the accuracy of the data.

The LPC is an example of a business process that is unclear and requires justification in the form of additional methodology and detail information to justify the NRC. The number of

[121] Exhibit T-2272 at 4.

work items and the amount of time spent by various departments and technicians are excessive.[122]

Qwest's UNE Design Center Costs are also overstated. WorldCom propounded discovery to Qwest to understand the basis for Qwest's proposal. Qwest responded to WorldCom's Second Set of Data Requests No. WCI 02-282 Part a. as follows:

> Analyze Order – This would be on WSD (Work Start Date). The CCT-I verifies the information in the WFA system to ensure that it is correct and that the circuit design, critical dates and central office tasks are correct. If there is incorrect information, it is up to the CCT-I to get the order to the appropriate work groups to have it corrected. The CCT-I has to ensure that all the information is available and correct in order to facilitate the work activity. The CCT-I will hand off a ticket for the C.O.T. to complete testing of the circuit by the Due Date and to call back to the CCT-I with the test result by Due Date. This work activity will be done after the C.O.T. has completed their DVA work activity first.

Exhibits 2291 and C-2291.

These work items are inappropriate in a forward-looking network. In a forward-looking environment, these activities would either not exist, be performed as an incidental task by the person doing the specific manual activity associated with the UNE, or be replaced by OSS, incorporating system interfaces designed to synchronize database information and system edits capable of limiting responses.[123]

Qwest must implement a plan continually to upgrade systems interfaces and business processes. The goal of the upgrade plan would be to continually improve flow-through processing of CLEC UNE requests. Qwest has the ability to design system interfaces, edits and business process changes to minimize or eliminate the amount of manual intervention required to

[122] Id. at 4-5.
[123] Exhibit T-2272 at 5-6.

resolve these problems. In addition, Qwest should be continually looking for ways to improve its internal systems databases to eliminate manual intervention as the result of system fallout.[124]

Qwest's central office frames group work time estimates are overstated as well. In Qwest's response to WorldCom's Second Set of Data Requests No. WCI 02-355 Part g., Qwest responded, "Qwest does not do time and motion studies." See Exhibit 2276 and C-2276. Without time and motion studies to validate the accuracy of work times, Qwest has failed to substantiate its costs.

The frames group is a central office based workgroup that connects UNEs to CLEC facilities. With the minor exception of some administrative activity, the bulk of the costs reflected on the detailed activity worksheets involve wiring and verifying service. The basic work effort involves the connection and disconnection of wires on a distribution frame connector block arrangement and verifying continuity.[125]

Qwest response to Worldcom's Second Set of Data Requests No. WCI 02-355 Part a. reads: "Please see Confidential Attachment A." See Exhibits 2276 and C-2276.

BEGIN CONFIDENTIAL INFORMATION* END CONFIDENTIAL INFORMATION.** This technology is forward-looking technology and is representative of a forward-looking network architecture.[126]

Based on Mr. Morrison's experience running cross connect jumpers on this type of distribution frame technology, the Qwest estimates on jumper running time are overstated. The time to run jumpers on this type of frame is one minute and not **BEGIN CONFIDENTIAL INFORMATION *** END CONFIDENTIAL INFORMATION** as indicated by Qwest. Central Office frame technicians run jumpers in bulk with many orders organized for rapid

[124] Exhibit T-2272 at 6.
[125] Exhibit TC-2272 at 7-8.
[126] Id.

jumper deployment. Qwest's time for jumper running assumes that jumpers are run one at a time without any production capabilities considered. If these efficiencies are assumed, the jumper running time for forward-looking distribution frame architectures can be reduced to one minute.[127]

bb. Directory Assistance/Operator Services (Exhibit 2056 at Sections 10.5 and 10.7)

(i) Branding (Exhibit 2056 at Sections 10.5.3-10.5.4 and 10.7.3 and 10.7.4)

Branding is the identification of service with a particular provider. In telecommunications, branding is associated primarily with OS and DA services. For instance, a caller dials "555-1212" or "411" from his/her home phone, the first thing the caller hears is "Qwest Directory Assistance." When the caller dials "0", the first thing he/she hears is "Welcome to Qwest." When he/she dials "00", the first thing the caller hears is "MCI WorldCom." Branding can be accomplished by recordings or by live individuals.[128]

Branding provides important information to consumers. It allows a consumer to know which company is providing the service and is one way for a consumer to determine whether their choice of a provider is still in effect. For instance, if a consumer has selected AT&T for long distance, but when he or she dials "00" and hears "Welcome to Sprint", it may be that their carrier selection was changed without their knowledge. As such, branding provides a way for consumers to determine whether "slamming" or some administrative error has occurred. Further, if there are problems with service or rates, or if the consumer wants to talk to the provider, branding provides the consumer with information on which company to contact. Branding also allows providers to remind their customers of their ongoing business relationship. It is a source of advertising. [129]

[127] Id. at 8.
[128] Exhibit T-2340 at 4.
[129] Id. at 5.

1. ILECs are required to provide CLECs with branding.

The FCC has found on several occasions that to the extent technically feasible, an ILEC must identify and re-brand the traffic it provides to its competitors.[130] Branding is required when a carrier utilizes the OS or DA services of the incumbent. In other words, if WorldCom resells the OS or DA services of Qwest, then Qwest would brand the services on behalf of WorldCom.

Competitive carriers do not always utilize the services of the ILEC, however. When properly provisioned customized routing is available from the incumbent, competitive providers may utilize the traffic routing capability to get OS/DA traffic to their own OS/DA platforms, so they can provide these services themselves.

If the incumbent does not provide customized routing that allows CLECs to provide their own OS/DA services, then the incumbent provider must provide nondiscriminatory access to its OS/DA, pursuant to Section 251(b) of the Telecommunications Act of 1996. Indeed, even if the incumbent does not provide customized routing, its obligation to provide nondiscriminatory access to its OS/DA remains.[131]

Through the testimony of Ms. Million, Qwest states that the FCC's *UNE Remand Orde*r exempts OS and DA from TELRIC pricing as an unbundled element or UNE so long as Qwest provides CLECs with access to customized routing.[132] Extrapolating this argument, Qwest then suggests that branding can be priced on an individual case basis ("ICB") at "market" rates without adherence to the TELRIC principles associated with UNEs and other interconnection services.

---

[130] UNE Remand Order at ¶ 443.

[131] Id. at ¶442. See, also, *Implementation of the Telecommunications Act of 1996; Telecommunications Carrier's Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended,* CC Docket Nos. 96-115, 96-98, 99-273, Third Report and order, Second Order on Reconsideration, and notice of Proposed Rulemaking, FCC 99-227, paras. 141-148 (rel. September 9, 1999).

[132] See, Exhibit T-2020 at 33 and 34.

Qwest is proposing a nonrecurring charge ("NRC") of $10,500 for "Call Branding, Set-Up & Recording" and a NRC of $175 for "Loading Brand/Per Switch." These rates are proposed for both Directory Assistance, Facility Based Providers (Section 10.5 of SGAT) and for Toll and Assistance Operator Services, Facility Based Providers (Section 10.7 of SGAT).

Qwest's proposed NRCs for OS/DA branding are excessive and without cost support. Qwest should be required to price branding on a TELRIC basis and not on an ICB, market-rate basis. Qwest's cost studies should be reviewed in light of the FCC's TELRIC principles as defined in the FCC's Local Competition Order and this Commission's own previous cost orders.

Qwest argues that it has the right to price these NRCs at market rates.[133] In doing so, Qwest has failed to provide any cost support for these rates. Even if this Commission concludes that TELRIC rates are not required for branding, the Commission should nonetheless establish TELRIC rates for the service. The TELRIC principles were designed to encourage competition and to benefit the public interest. The Commission should require that the branding NRCs be based upon TELRIC principles. The fact that branding is not a UNE does not mean that this Commission cannot require TELRIC cost support for the proposed rates. As this Commission found in its May 11, 1998 order, "The FCC's interconnection Order provides guidance on many costing and pricing issues, but its recommendations are largely non-binding."[134] In a proceeding in 1996, the Commission noted, "For consumers to have competitive choice, the U S WEST network must be opened up at terms that are fair to both U S WEST and new entrants. A key part of that process is determining the costs and prices for U S WEST's services." [135] Proposed

[133] Exhibit T-2020 at 33-34.
[134] Before the Washington Utilities and Transportation Commission; Eighth Supplemental Order Interim Order Establishing Costs for Determining Prices in Phase II; and Notice of Prehearing Conference; Docket Nos. UT-960369, UT-960370, UT-960371 at 8.
[135] Before the Washington Utilities and Transportation Commission; Fifteenth Supplemental Order, Docket No. UT-950200, at 9 (Dated April 11, 1996).

rates at these levels with no cost support do not comport with this Commission's prior decisions on rate development. The branding rates need to be just, reasonable and nondiscriminatory and applying the TELRIC principles will ensure that those standards are met.

It is impossible to determine whether Qwest's $10,500 non recurring charge for branding is reasonable because Qwest has failed to provide any cost support. Nevertheless, given the nature of the work required for this service, the price seems grossly overstated. For instance, developing a call brand requires only a few steps – find a voice, write a script, record the message on a high quality digital recording device. Even if Qwest developed a dozen tapes for the CLEC to choose from, this cost is unreasonable. The messages are only a few words and are not complicated.[136]

Qwest is proposing the $10,500 fee for OS and an additional $10.500 fee for DA. This is especially troubling since the recording would be the same or only differ by perhaps a word. It would be wrong to assess this large NRC twice, when the same recording/tape could be used for both services.[137]

The "loading/brand/per switch" proposal of $175 is also overstated and unsupported. Again, Qwest provides no cost support for this rate element. The process of loading this message into the switch is very simple and could not possibly require a cost of $175.[138]

For all of the reasons, WorldCom requests that the Commission reject Qwest's proposed branding rates and require Qwest to provide TELRIC cost studies to support the proposed NRC rates for both "Call Branding, Set-up & Recording" and "Loading Brand/Per Switch" for DA and OS.

ee. Access to Poles, Conduit and Right of Way (Exhibit 2050 at Section 10.8)

[136]Exhibit T-2340 at 14-15
[137]Id. at 15.
[138] Id.

For access to poles, ducts and conduit, Qwest requires a two-part "pre-ordering" process that includes an inquiry fee and a field verification fee. For access to rights-of-way ("ROW"), where Qwest has ownership or control to provide access, Qwest proposes an inquiry fee and a documentation fee.[139]

For access to poles, ducts and conduit, Qwest's inquiry/field verification rate structure requires CLECs to pay Qwest to conduct a database search (inquiry) to determine if space is available, as well as to verify physically that space is available. Qwest thus admits that the information contained in its databases is unreliable. Furthermore, Qwest's field verification costs include activities associated with inspecting its network and updating its records.

It is inconsistent with TELRIC principles to charge CLECs to clean up Qwest's databases. The fact that the databases are not up to date is not caused by a CLEC application, even if the application is the event that brings the problem to light. Charging CLECs to obtain information from a database and to verify the information contained in the database is correct is inconsistent with the TELRIC principle that cost should follow cost causation. Indeed, the act of inspecting its network and updating its records benefits Qwest and, possibly, carriers that in the future may use the updated information in Qwest's databases. As a consequence, WorldCom recommends that the Commission reduce the time Qwest allotted to database inquiry since Qwest also allotted time for field verification and database documentation.[140]

(i) Pole Inquiry Fee (Exhibit 2050 at Section 10.8.1)

Qwest states that for a pole inquiry fee Qwest "processes and tracks the order, creates a log for the job in Qwest's database and assigns a field engineer who conducts a database

[139] Exhibit T-2252 at 2.
[140] Id. at 2-3; See Arizona Cost Decision at 34-35.

search."[141] Qwest allocates almost 6 hours for activities that are conducted by three groups: Service Support Team, Collocation Project Management Center ("CPMC") and Outside Plant Engineering ("OSP").[142]

The Service Support Team performs the following activities: Receive Request from CLEC via E-mail; Identify BAN#; Return to CLEC with Form 1A; Receive form 1A completed by CLEC with Electronic Map, Review for completeness, and forward package to CPMC.[143]

The CPMC performs the following activities: review for completeness and resolve discrepancies; create log in database with appropriate dates; based on information provided, determine and verify field engineering contacts; make copies for appropriate work groups and distribute; act as point of contact between engineering and account executive for any issues; and track and escalate as required to ensure that time frames are met. Finally, the OSP group reviews the route requested in a database and prepares to meet with co-provider to conduct the field verification.[144]

Qwest allots excessive time for various activities. For example, forwarding information between groups, determining the appropriate field engineering contacts and copying documents. In addition, other activities are unnecessary, such as the duplicative "review for completeness" of the form a CLEC submits. In addition, it is not clear what benefit a CLEC (or indeed Qwest) derives from the time Qwest includes to review the route requested in a database, since Qwest requires a field verification, which includes documenting information (presumably updating the database) obtained on the field visit. Mr. Lathrop corrected these errors in Exhibit 2253.

(ii) Pole Field Verification Fee (Exhibit 2050 at Section 10.8.5)

[141] Exhibit T-2101 at 3.
[142] Exhibit C-2024 at 419-2.
[143] Id.
[144] Id.

Qwest allots twenty minutes to **BEGIN CONFIDENTIAL DISCUSSION** ***[145] **END CONFIDENTIAL DISCUSSION** In response to WorldCom discovery request number 428, Qwest stated that the average number of poles verified per job is approximately ten.[146] **BEGIN CONFIDENTIAL** *** **END CONFIDENTIAL** Qwest's cost development, however, does not consider the number of poles verified per job. This is in contrast to Qwest's innerduct field verification fee, **BEGIN CONFIDENTIAL** ***[147] **END CONFIDENTIAL** WorldCom recommends that Qwest be required to include the average number of poles verified per job from Exhibit 2254 in its cost development for the innerduct field verification fee cost study. Mr. Lathrop incorporated this change in Exhibit 2253.

(iii) Innerduct Inquiry Fee (Exhibit 2050 at Section 10.8.2)

Qwest states that for an innerduct inquiry "Qwest performs a database search and prepares a duct diagram that identifies distances between manholes and access points for the manholes. The inquiry step includes only the location and mapping of Qwest facilities but does not indicate if space is available."[148]

BEGIN CONFIDENTIAL DISCUSSION *** **END CONFIDENTIAL DISCUSSION** Mr. Lathrop corrected these errors in Exhibit 2253.

(iv) Innerduct Field Verification Fee Cost Study (Exhibit 2050 at 10.8.6)

Qwest states that it will **BEGIN CONFIDENTIAL DISCUSSION** *** **END CONFIDENTIAL DISCUSSION** Mr. Lathrop made corrections to Qwest's cost study in Exhibit 2253.

(v) Rights of Way Inquiry Fee Cost Study (Exhibit 2050 at Section 10.8.3)

[145] Exhibit C-2024 at 419-4.
[146] Exhibit 2254.
[147] Exhibit C-2024 at 419-5.
[148] Exhibit T-2102 at 4.

Qwest states that the rights of way inquiry fee "recovers the cost to research and provide a CLEC with copies of publicly recorded easements and a matrix of private easements that the CLEC's route will pass through."[149]

BEGIN CONFIDENTIAL DISCUSSION *** [150] **END CONFIDENTIAL DISCUSSION** Qwest allots excessive time to conduct the activities listed in its cost study and Mr. Lathrop corrected these errors in Exhibit 2253.

ff. Bona Fide Request Process (Exhibit 2050 at Section 17.1)

Qwest proposes to assess a nonrecurring charge of $2407.98 for processing a Bona Fide Request. Qwest's Bona Fide Request cost study includes a total of **BEGIN CONFIDENTIAL DISCUSSION** *** **END CONFIDENTIAL DISCUSSION** will not be necessary since sufficient information should be provided in the CLEC's BFR. Assuming that some BFRs may require additional information, WorldCom recommends the Commission permit Qwest to use no more than 3 hours for each group for these activities. (Mr. Lathrop assumed that when no additional information is needed, the meetings, etc. will require two hours for each group, and that fifty percent of the time additional information is needed and the full four hours would be needed.)[151]

BEGIN CONFIDENTIAL DISCUSSION *** **END CONFIDENTIAL DISCUSSION**[152] Given the information that CLECs are required to provide in the BFR,[153] WorldCom recommends the Commission permit Qwest to use no more than 30 minutes in developing the cost for these activities.[154] **BEGIN CONFIDENTIAL DISCUSSION** *** **END**

[149] Exhibit T-2101 at 2.
[150] Exhibit C-2024 at 419-9.
[151] Exhibit CT-2250 at 33-34.
[152] Exhibit C-2024 at Tab 124.
[153] Qwest's list of functions seems to invoke the question of a legal interpretation that a CLEC applicant has decided and it is inappropriate for CLECs to pay for a Qwest legal interpretation.
[154] Exhibit CT-2250 at 34.

CONFIDENTIAL DISCUSSION CLECs should not pay for Qwest to obtain internal approval of a BFR. Qwest has an incentive to delay and thereby deny CLEC access to network capabilities. Considering that some amount of time is required to draft findings and recommendations, WorldCom recommends the Commission require Qwest to use not more than 6 hours for this activity.[155]

In summary, WorldCom recommends Qwest's BFR cost be developed using 3.5 hours for the IAC and 13.5 hours for its IP group.[156]

B. Recurring Costs

1. Overview

WorldCom's overview contained in the non recurring cost section includes an overview for both recurring and non recurring rates. In the interest of saving space, WorldCom will not present another overview here.

2. Factors

WorldCom's discussion on factors in the non recurring cost section applies equally to Qwest's recurring cost studies. Again, in the interest of saving space, WorldCom will not separately discuss factors here. WorldCom asks the Commission to modify Qwest's factors in its recurring studies as discussed above.

3. Discussion of Individual Rates

a. Channel Regeneration (Exhibit 2050 at Section 8.1.7)

A regenerator, or repeater, is a type of circuit equipment that amplifies or regenerates electronic digital signals as they travel along cables within the central office. When DS1 and

[155] Exhibit CT-2250 at 34-35.
[156] Id.

DS3 circuit lengths exceed 655 feet and 450 feet, respectively, a repeater is used to regenerate the signal.[157]

Qwest plans to charge CLECs for regenerating a signal in a central office under certain circumstances. Qwest states:

> Depending upon the circumstances, when a CLEC requests collocation in a central office and Qwest places a CLEC in a collocation location that requires regeneration, Qwest would provide regeneration at no cost to the CLEC. In cases where the line meets or exceeds Qwest standards and the CLEC requests regeneration, the CLEC will be responsible for the charges associated with the regeneration of the line.[158]

It appears from this language that first, Qwest recognizes that it exerts control over the placement of CLEC equipment and its own network configuration, which largely determine whether CLECs need regeneration, and Qwest will provide regeneration at no charge if (technically) needed. Second, if a CLEC technically does not need, but for some reason wishes to purchase regeneration, Qwest has developed an applicable cost study.[159]

For the reasons discussed with regard to Qwest's direct connection cost study, WorldCom requests that Qwest be required to use 80% Qwest labor to develop the labor-related costs in its Channel Regeneration cost study.[160]

c. CLEC to CLEC Collocation (Exhibit 2050 at Section 8.8.3)

In the interest of saving space, WorldCom discussed its views on both Qwest's non recurring and recurring CLEC to CLEC collocation rates in the section above relating to CLEC to CLEC collocation non recurring rates. WorldCom will not repeat its discussion here but asks

[157] Exhibit CT-2250 at 20.
[158] Direct Testimony of Robert J. Hubbard, Exhibit T-2150 at 12.
[159] Exhibit CT-2250 at 20-21.
[160] Exhibit CT-2250 at 14 and 22.

the Commission to modify Qwest's proposal for recurring cable racking rates as discussed at pages 8-13 of Mr. Lathrop's Direct Testimony, Exhibit CT-2250.

n. Customized Routing (Exhibit 2050 at Section 9.13)

WorldCom discussed its concerns with Qwest's customized routing offering in its discussion of customized routing in the non recurring cost section. Those concerns relate both to recurring and non recurring rates for the service. In the interest of saving space, WorldCom will not repeat those concerns here.

o. Common Channel Signaling/SS7 (Exhibit 2050 at Section 9.14)

WorldCom discussed its concerns with Qwest's common channel signaling/SS7 offering in its discussion of common channel signaling/SS7 in the non recurring cost section. Those concerns relate both to recurring and non recurring rates for the service. In the interest of saving space, WorldCom will not repeat those concerns here.

p. ICNAM (Exhibit 2056 at Section 9.18)

(i). Qwest must provide the ICNAM database on just, reasonable and nondiscriminatory terms.

Qwest describes the ICNAM service as a service that allows CLECs to query Qwest's ICNAM database in order to secure the listed name information associated with the requested telephone number in order to deliver that information to the CLEC's end users. Qwest states that recurring charges for ICNAM are billed on a per query basis and a nonrecurring charge (CCSAC Options Activation Charge) will apply for a CLEC to activate ICNAM Database Query Service.[161]

ICNAM is an unbundled network element. This much is not disputed between the parties. As with DAL, ILECs have exclusive control over the generation of the information that

[161] Exhibit T-2320 at 11-12.

comprises this database through the service order process. CNAM is essential to allowing WorldCom to offer telecommunications services such as caller-ID.[162]

As the FCC concluded in the *UNE Remand Order*, "there are no alternatives of comparable quality and ubiquity available to requesting carriers, as a practical, economic, and operational matter, for the incumbent LEC's call-related databases."[163] As the ILEC in Washington with a clear majority of subscribers in Washington, Qwest has a clear monopoly on the information that comprises these databases.

Because ICNAM has been identified as a UNE, Section 251(c)(3) of the Act requires Qwest to provide access on just, reasonable and nondiscriminatory terms. In addition, Qwest may not restrict WorldCom's use of this database in the provision of a telecommunications service.

Section 51.319(e)(2)(A) of the FCC's rules also requires that ILECs provide nondiscriminatory access to all call-related databases as UNEs.[164] Qwest therefore has a duty to provide access to the databases in at least the same manner that Qwest provides it to itself and to other carriers. The FCC has stated repeatedly that any standard that would allow an ILEC to provide access to any competitor that is inferior to that enjoyed by the ILEC itself is inconsistent with Congress' objective of establishing competition in all telecommunications markets.[165] This means not only that Qwest is obligated to treat all carriers the same, but must provide those carriers with the same nondiscriminatory access to these databases that it provides itself in order to level the playing field with respect to providing competing services to customers in Washington.

---

[162] Id. at 12.
[163] UNE Remand Order at para. 410.
[164] 47 C.F.R. 51.319(e)(2)(A).
[165] Local Competition Order at paras. 100-105.

(ii) Qwest should be required to provide access to its CNAM database on a batch basis.

The Commission should require Qwest to allow WorldCom full access to the Qwest ICNAM database. WorldCom requests the transfer of Qwest's CNAM database to WorldCom as a "batch" file instead of being relegated to "per-query" or "dip" access, because batch access allows WorldCom use of the database in exactly the same readily accessible manner as Qwest enjoys. Conversely, limiting access to a per-query or "dip" basis discriminates against WorldCom and other CLECs by giving Qwest an unfair advantage regarding costs, service quality and the provision of new and innovative services. An example of how "per-query" access is discriminatory exists when a Qwest caller makes multiple calls to a WorldCom customer with caller-ID. WorldCom must query Qwest's database for the same caller-ID information each and every time that call is terminated. In doing so, WorldCom must pay for that query each and every time that call is terminated. But when a Qwest customer calls another Qwest customer within Qwest's operating territory, Qwest may query its own database, but certainly does not pay for that information each and every time it terminates the call. If WorldCom had bulk access to the CNAM database in a downloadable format, it would only pay for the data once for the listing and then for any updates made to that listing. [166]

Just as in the case of directory assistance listings, a competitive carrier may wish to obtain the full database in order to avoid the required dip for each and every query. For some CLECs such as WorldCom, the cost of obtaining the full contents of the database and maintaining its own database may be more economical than access that is restricted to a per-dip

[166] Exhibit T-2320 at 13-14.

or per-query basis. Providing the alternative of bulk data provides potential cost savings to CLECs and provides an incentive to Qwest to avoid setting its database query price too high.[167]

The economics of per query versus batch access is not difficult to demonstrate. For example, each WorldCom subscriber typically has a few people that are repeat callers to their WorldCom household. For example, spouses call each other every day from work. Since WorldCom's access is limited to per query for CNAM information, it would possibly dip and pay Qwest for access to its CNAM database 20 times a month for the same information. With download access, WorldCom might pay for that same information once.

A more extreme scenario happens every day. If a Qwest customer is a high volume caller like a telemarketer, an opinion pollster or charity, it may make calls to a thousand WorldCom customers with caller ID across Washington one evening. On that day alone, WorldCom would incur charges for a thousand dips to Qwest's CNAM database for the same caller ID information.[168]

WorldCom experiences increased costs in other ways as well. From a practical standpoint, requiring WorldCom to dip Qwest's database or access the database on a "per query" basis only, rather than access its own database, forces WorldCom to incur development costs associated with a complex routing scheme within WorldCom's UNE platform to provide quality service to its customers. As Qwest already has its own database, it does not incur the same costs associated with implementing and maintaining this routing scheme.[169]

Full access to the CNAM database also results in increased quality of service to WorldCom customers. Allowing full access to the CNAM database means that WorldCom has more control over the quality of the service it offers. For example, CNAM allows the called

[167] Id. at 14-15.
[168] Id. at 15.
[169] Id. at 16.

customer's premises equipment, connected to a switching system via a conventional line, to receive a calling party's name and the date and time of the call during the first silent interval in the ringing cycle. This is a very limited time frame within which to determine the name associated with the calling number. As the call reaches the terminating switch and a Caller ID request is made, the request must route through the network to reach the database holding the "name" information. WorldCom must first determine which LEC owns the number, then route the call out to that LEC and back to make the dip. If the LEC does not have the name, then exception handling procedures must be used to find the name and the result is finally returned to the called party. The time it takes to route the number request to the correct LEC's database to make the dip, return the request, and provide exception handling when the number is not found in the database cannot always be completed within the short ring cycle required. If, however, WorldCom maintains its own database, a lengthy step of the process can be eliminated, allowing WorldCom to provide service at least as well as Qwest provides for itself.[170]

Not only does limited access to the CNAM database, such as per-query access only, prevent WorldCom from controlling the service quality and management of the database, but such a limitation also restricts WorldCom's ability to offer other innovative service offerings that may be provided more efficiently, quickly, and cheaply. Without competition in this regard, Qwest has no incentive to upgrade its CNAM service or the technology that drives it. [171]

In the *Local Competition Order* and in the *UNE Remand Order*, the FCC defined call-related databases as those "databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or other provision of

[170] Id. at 16-17.
[171] Id. at 17-18.

telecommunications service."[172] Certainly CNAM and LIDB are used over signaling networks like the SS7 no matter where the databases reside. In fact WorldCom currently uses SS7 on its own network to deliver caller-ID and call validation from its own LIDB and CNAM databases. But this definition does not confine these databases to one company's SS7 network for the purpose of accessing the information therein. Rather, the FCC's definition is more descriptive than definitive.

The FCC has determined that query-only access to other databases is discriminatory. An analogy can be made between access to the CNAM database and another call-related database, the directory assistance listing (DAL or DALI) database. With respect to DALI databases, the FCC specifically found that "LECs must transfer directory assistance databases in readily accessible electronic, magnetic tape, or other format specified by the requesting LECs, promptly on request. . .."[173] The FCC specifically held that LECs may not restrict competitive access to the DALI database by restricting access to per-query access only:

> Although some competing providers may only want per-query access to the providing LEC's directory assistance database, per-query access does not constitute equal access for a competing provider that wants to provide directory assistance from its own platform. With only per-query access to the providing LECs database, new entrants would incur the additional time and expense that would arise from having to take the data from the providing LEC's database on a query-by-query basis then entering the data into its own database in a single transaction. *** Such extra costs and the inability to offer comparable services would render the access discriminatory.

1999 Directory Listing Order at ¶ 152.

---

[172] *UNE Remand Order* at ¶ 403 (citation omitted).

[173] *In the Matters of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information*, Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273, at ¶ 153 (September 9, 1999) (hereinafter, "*1999 Directory Listing Order*").

Similarly, the CNAM database is also a call-related database and competitors' access to this database should not be limited to a per-query or per-dip basis only. To allow such a restriction to stand allows Qwest to discriminate against competing carriers through limited access to the CNAM database.

WorldCom seeks access to the line number, 15 digit name identifier, and the privacy indicator associated with the record. Any other information that Qwest may hold in its ICNAM database is irrelevant for purposes of providing caller-ID services. The fact that Qwest may hold the ICNAM data in its line information database ("LIDB") is also irrelevant since the pertinent data can be extracted from whichever database Qwest is holding the information.[174]

The Michigan and Minnesota commissions have found that the ILEC is obligated to provide full or batch access to the CNAM database in a downloadable format.[175] For the reasons stated by those commissions and the reasons otherwise stated herein, WorldCom requests that the Commission order Qwest to provide CNAM data on a batch basis.

WorldCom respectfully urges the Commission to find that Qwest cannot act in a discriminatory manner and restrict access to its CNAM database to a per-query or per-dip basis only. Competitors, such as WorldCom, need access to the CNAM database in a bulk, downloadable format that allows for efficient competition and improved service quality to customers.

s. Directory Assistance/Operator Services (Exhibit 2056 at Sections 10.5 and 10.7)

[174] Exhibit T-2320 at 20.

[175] *See In the Matter of the Application of SWBT Michigan for Approval of Cost Studies and Resolution of Disputed Issues Related to Certain UNE Offerings,* Case No. U-12540 at 21 (March 2001) and Minnesota ALJ Recommended Decision at paras. 152-154.

Generally, Operator Services and Directory Assistance are services that support operator call completion and the ability of telecommunications providers to offer directory assistance services to their customers.

Operator services refer to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call. Specifically, incumbent local exchange carriers (ILECs) must allow telephone service customers to connect to the operator services offered by that customer's chosen local service provider by dialing "0" ("0-") or "0" plus the desired telephone number ("0+"), regardless of the identity of the customer's local telephone service provider. [176]

Directory assistance refers to a service in which users are provided with telephone numbers and, in some instances, addresses of individual telephone exchange service subscribers. The information provided to users is obtained from databases that contain the names, addresses, and telephone numbers of the telephone exchange service subscribers within particular geographic areas that do not elect to have unpublished numbers. [177]

(i) Qwest must provide OS/DA on rates and terms that are non discriminatory.

The FCC, in its *UNE Remand Order*, specifies that where the incumbent carrier does not provide customized routing, it must continue to offer DA/OS as UNEs pursuant to 47 USC § 251(c)(3).[178] As UNEs, Qwest must provide OS/DA consistent with TELRIC. As discussed above with regard to customized routing, Qwest has refused to provide WorldCom with customized routing as it has requested. Consequently, Qwest must offer WorldCom OS and DA at TELRIC rates.

[176] Exhibit T-2330 at 2-3.
[177] Exhibit T-2330 at 2-3.
[178] UNE Remand Order at para. 462.

Moreover, to the extent that Qwest may provide customized routing, regardless of the UNE status of OS/DA, Qwest remains obligated to provide DA/OS under the principles of "dialing parity" which includes the duty to allow nondiscriminatory access to DA/OS pursuant to 47 USC § 251(b)(3).[179] As the *UNE Remand Order* made clear, "competitive carriers who wish to obtain OS/DA from the incumbent may do so consistent with the incumbent LEC's nondiscriminatory access obligations under Section 251(b)(3)."[180] "Nondiscriminatory" applies not only to what Qwest charges other carriers, and the way in which the service is provided, but must also be relative to what Qwest charges itself. In its *Local Competition Third Report & Order*, the FCC states:

> Because an incumbent LEC would have the incentive to discriminate against competitors by providing them with less favorable terms and conditions that it provides to itself, we conclude that the term "nondiscriminatory", as used throughout section 251, applies to the terms and conditions an incumbent LEC imposes on third parties as well as on itself.[7]

(i) The Commission should require Qwest to submit a cost study for its OS/DA rate proposals.

The only way to determine whether Qwest is providing OS and DA at nondiscriminatory rates is to require Qwest to submit a cost study in support of its rates for the parties' and the Commission's review and evaluation.

Qwest maintains that it can price OS and DA services at market-based rates. Market-based prices are inherently discriminatory to competitive providers who have not had the advantage or have enjoyed the economic and market-based benefits (including scale and scope economies) of an entrenched incumbent as Qwest has. Consequently, such a market-based methodology has no basis being considered in this proceeding. Moreover, Qwest provides no

[179] Id.
[180] UNE Remand Order at para. 455.
[7] UNE Remand Order at ¶ 129 (1999), citing *Local Competition Second Report and Order*, at ¶¶ 100-05, and *Local Competition Order*, at ¶ 217.

evidence that the prices it proposes are grounded in the market or are market-based in any way. If the nondiscriminatory access requirement of Section 251(b)(3) is to be adhered to, the Commission must consider the costs, based on a properly conducted cost study, and a market-based methodology must be rejected.[181]

Because Qwest has failed to provide a cost study to support its rates, it has failed to satisfy its burden of proof. Thus, its proposed rates for OS and DA should be rejected. WorldCom asks the Commission to order Qwest to submit TELRIC studies for its OS and DA rates to this Commission for its review and evaluation.

t. Directory Listings (Exhibit 2056 at Section 10.6)

(i) Qwest must provide nondiscriminatory access to its DAL database at TELRIC rates.

Directory Assistance Listings ("DAL") information is the underlying customer listing information that constitutes the directory assistance database. In its Local Competition Order, the FCC identified the DAL database as a call-related database that must be unbundled.

DAL information is generated by Qwest's service order process when a customer initiates service. Because Qwest's line share represents a majority of the marketplace, Qwest has bottleneck control over the vast majority of DAL in the State of Washington. Other companies may offer directory services that contain some of the listings, yet most, if not all, get their

[181] Several state commissions have rejected the ILECs' arguments that market based rates should apply to OS and DA on the basis that no evidence existed that the ILEC was providing customized routing consistent with the FCC rules. *Application by Pacific Bell Telephone Co. (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, LLC (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Application 01-01-010, Decision, (September 20, 2001) at 13; *Petition of MCImetro Access Transmission Services, LLC et al. for Arbitration with Southwestern Bell Telephone Co. under the Telecommunications Act of 1996*, Texas PUC, Docket No. 24542, Arbitration Award (April 29, 2002) at 163-165; Arizona Cost Decision at 61; Minnesota 271 ALJ Recommended Decision at para. 104; *In the Matter of the Application of Ameritech Michigan for Approval of a Shared Transport Cost Study and Resolution*, Case No. V-12622, Opinion and Order (March 19, 2001) at 10-11.

information from Qwest. This is the only way providers can be assured the information is complete and up-to date.[182]

The FCC has confirmed that incumbents like Qwest enjoy a competitive advantage with respect to the provision of critical directory assistance service as a result of their legacy as monopoly providers and their "dominant position in the local exchange and exchange access markets"[183] and that they have "access to a more complete, accurate and reliable database than its competitors."[184] These findings confirm that, as the ILEC in Washington, Qwest maintains significant market power over the provision of listing data and explain why a continued requirement for cost-based prices for these services is consistent with FCC guidelines.

The FCC determined that the DAL database is a UNE under Section 251(c)(3) in its *Local Competition Order*.[185] More recently, in the Executive Summary of the *UNE Remand Order*, the FCC in a section titled "Network Elements that Must be Unbundled" specifically stated, "LECs must also offer unbundled access to call-related databases, including but not limited to, the Line Information database (LIDB), Toll Free Calling database, Number Portability database, Calling Name (CNAM) database, Operator Services/Directory Assistance databases…."[186] In that Order, the FCC did not remove DAL databases from the list of UNEs. Additionally, the *Local Competition Report* defined call-related databases as "databases, other than operations support systems, that are used in signaling networks for billing and collection or the

---

[182] Exhibit T-2320 at 3-4.
[183] *FCC Memorandum Opinion and Order, In the Matter of the Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services, et al* CC Docket No. 97-172,DA 00-514, at fn. 42, (adopted April 11, 2000) (hereinafter, "*SBC Forbearance Order*").
[184] *Id*., See also, *Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended, First Report & Order,* FCC 01-27, CC-Docket No. 99-273 (2001) at ¶ 3, (hereinafter, "*DAL Provisioning Order*").
[185] Local Competition Order at para. 538.
[186] *UNE Remand Order*, at ¶19.

transmission, routing, or other provision of telecommunications service." [187] Thus, Qwest is obligated to provide nondiscriminatory access to the DAL database at TELRIC rates.

DAL is also subject to the 1996 Telecommunications Act's[188] nondiscriminatory access requirement pursuant to Section 251(b)(3). These two sections (47 USC §251(b)(3) and §251(c)(3)), however, are not mutually exclusive. Section 251(b)(3) requires nondiscriminatory access as between all LECs and DA providers, while the UNE requirements of Section 251(c)(3) remain applicable as between ILECs and CLECs such as Qwest and WorldCom.

In the FCC's recent *DAL Provisioning Order*, the FCC recognized that ILECs continue to charge CLECs and competing DA providers like WorldCom, discriminatory and unreasonable rates for DAL. The FCC found that Section 251(b)(3) prohibits ILECs from charging discriminatory and unreasonable rates to CLECs and other eligible directory assistance providers. Although it declined to adopt a specific pricing structure for DAL as between all LECs under dialing parity, it encouraged states to set their own rates consistent with the nondiscriminatory access requirements of 251(b)(3). In doing so, the FCC specifically recognized that state imposed rates based on cost-based models utilizing valid cost studies were consistent with dialing parity. The Commission specifically cited a decision of the New York Public Service Commission that analyzed cost studies from the ILEC and other LECs to arrive at a cost-based price model for the nondiscriminatory provision of directory assistance. [189]

Indeed, the FCC recently reaffirmed that incumbents must "make available to unaffiliated entities all of the in-region telephone numbers they use to provide nonlocal directory assistance

[187] *Local Competition Order*, at fn. 1126; see also, *UNE Remand Order* at ¶ 403 (emphasis added).
[188] 47 U.S.C. §151 et. seq.
[189] *Id*. at ¶ 38, fn. 99, citing *Opinion and Order in Module 1 (Directory Database Services)*, Case 98-C-1375, Opinion No. 00-02, State of New York Public Service Commission (Feb. 8, 2000).

service at the same rates, terms and conditions they impute to themselves"[190] and "comply with the nondiscrimination requirements set forth in section 272(c)(1)."[191]

Because Section 251(b)(3) mandates nondiscriminatory access between all competitive providers, Qwest must provide DAL at the same price it imputes to itself or put another way, at cost.

In Texas, based on a cost study submitted by SWBT, the Texas Commission set a cost-based price for initial listings at $0.0011 and $0.0014 for updates.[192] Similarly, the California Public Utilities Commission agreed with WorldCom in arbitration with Pacific Bell and ordered that the appropriate cost-based rate for DAL be considered in one of its cost proceedings.[193]

The evidence in the record shows that at least as late as fourth quarter 1999, the average TELRIC pricing for DAL over the 14 state Qwest region ranged between $0.0073 per listing for initial loads and $0.0171 per listing for daily updates.[194]

This rate shows that there is no basis for imposing a "market rate" of 2.5 cents per initial listing and 5 cents for each update[195]. If a true market were to exist, competition would drive the price of each listing more toward cost-based rates rather than a 192% increase in the cost of daily updates based on the price Qwest estimated in its FCC filing. Rather, Qwest continues to discriminate against all other carriers by charging them a rate higher than what Qwest charges itself. For Qwest to claim otherwise would mean that Qwest charges itself a "market based" rate, which would be a sham rate.

---

[190] *SBC Forbearance Order*, DA 00-514 at ¶ 2 (2000).
[191] *Id.* at ¶ 15 (citations omitted).
[192] See, Texas 1998-2000, *Directory Assistance Listing Cost Study, Total Element Long Run Incremental Cost Study*, Form 2; cited in, MCI Texas Arbitration Award, Texas Commission Docket 19075, at pages 12-14.
[193] *See, Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*, California PUC, Decision 01-09-054 at pp. 6-10 (September 20, 2001).
[194] See Exhibit 2135.
[195] Exhibit 2056 at Sections 10.6.1 and 10.6.3.

Such inflated prices threaten to barricade any meaningful competition in the market place and have the potential to cause competitors to drop out of the market where there would exist no incentive for further innovation.[196]

While WorldCom recognizes that the Qwest TELRIC rate may not be current, these rates provide a start in developing a cost study to determine what an appropriate cost-based rate would be in Washington. WorldCom asks the Commission to adopt this rate as an interim rate in Washington and order Qwest to submit TELRIC studies for DAL.

(ii) Qwest should not charge a transport fee per listing for DAL.

WorldCom also objects to Qwest's insertion of a transport fee of $0.002 per listing for DAL.[197] WorldCom has already expended financial and capital resources to build and maintain its own electronic system for receiving DAL information from Qwest known as NDM or "network data mover." Asking WorldCom to pay Qwest to transport the data over WorldCom's own facilities would be asking WorldCom to pay twice for transport and would unjustly enrich Qwest.[198]

(iii) Qwest's proposed rate for reload or refresh is unreasonable.

Qwest's proposed rate for re-load or re-fresh is unreasonable.[199] For the most part, the only time WorldCom requests a re-load of the database is when WorldCom receives corrupted data from Qwest. WorldCom should not have to pay for Qwest's mistakes.[200]

Even if WorldCom needs a refresh through no fault of Qwest's, however, WorldCom should not have to pay for the data twice. A re-load is merely a back-up or "snapshot" of the data WorldCom has already received from Qwest. Because WorldCom has already purchased

[196] Exhibit T-2320 at 9 and Exhibit T-E2320 at 9.
[197] Exhibit 2056 at Section 10.6.5.1
[198] Exhibit T-2320 at 10.
[199] Exhibit 2056 at Section 10.6.2
[200] Exhibit T-2320 at 10.

the data when it paid for the initial load and the subsequent updates, extracting a fee for each listing when the data is refreshed is unreasonable and discriminatory.[201]

WorldCom understands that Qwest incurs programming costs when reloads are furnished since the data needs to be extracted from Qwest's databases. Qwest does not, however, incur other costs associated with setting up a new account—charges that Qwest presumably recoups when it charges for an initial listing. Therefore, WorldCom proposes that in situations where WorldCom may need a reload through no fault of Qwest, WorldCom should reimburse Qwest for reasonable programming fees and computer time to extract the reload data. Qwest should continue to provide reload data at no charge when the need for the reload is attributable to Qwest's provision of corrupted data.[202]

Dated this 23rd day of July 2002.

Respectfully Submitted,

WORLDCOM, INC.

By: _____

Michel L. Singer Nelson
707 –17th Street, #4200
Denver, Colorado 80202
303-390-6106
303.390.6333
michel.singer_nelson@wcom.com

[201] Id. at 10-11.
[202] Id.